



- Sec. 4. Definitions.
- Sec. 5. Establishment of Office of Strategic Trade.
- Sec. 6. General provisions.
- Sec. 7. National security controls.
- Sec. 8. Foreign policy controls.
- Sec. 9. Short supply controls.
- Sec. 10. Foreign boycotts.
- Sec. 11. Procedures for hardship relief from export controls.
- Sec. 12. Procedures for processing export license applications.
- Sec. 13. Violations.
- Sec. 14. Enforcement.
- Sec. 15. Exemption from certain provisions relating to administrative procedure and judicial review.
- Sec. 16. Annual report.
- Sec. 17. Regulatory authority.
- Sec. 18. Transfer of functions
- Sec. 19. Effect on other Acts.
- Sec. 20. Authorization of appropriations.
- Sec. 21. Effective date.
- Sec. 22. Termination date.
- Sec. 23. Savings provisions.
- Sec. 24. Technical amendments
- Sec. 25. Amendments to the National Security Act of 1947.

## 1 FINDINGS

2 SEC. 2. The Congress makes the following findings:

3 (1) The ability of United States citizens to engage  
 4 in international commerce is a fundamental concern of  
 5 United States policy.

6 (2) It is important for the national interest of the  
 7 United States that both the private sector and the Fed-  
 8 eral Government place a high priority on exports,  
 9 which would strengthen the Nation's economy.

10 (3) Uncertainty of export control policy can inhibit  
 11 the efforts of American business and work to the detri-  
 12 ment of the overall attempt to improve the trade bal-  
 13 ance of the United States.

1           (4) The failure to restrict the transfer of national  
2 security sensitive technology and goods to the Soviet  
3 Union and other countries where actions or policies are  
4 adverse to the national security interests of the United  
5 States, has led to the significant enhancement of Soviet  
6 bloc military-industrial capabilities, thereby creating a  
7 greater threat to the security of the United States, its  
8 allies, and other friendly nations, and increasing the  
9 defense budget of the United States.

10           (5) The failure to restrict the export of national  
11 security sensitive technology and goods is attributable  
12 in large part to the diffusion of decisionmaking respon-  
13 sibilities regarding strategic trade matters among sev-  
14 eral Federal agencies, and the lack of adequately  
15 trained and disciplined personnel.

16           (6) Because of the overlapping and frequently con-  
17 fusing responsibilities of the many Federal agencies  
18 that administer controls over strategic trade, the  
19 United States export control system has not served na-  
20 tional security, foreign policy, or export interests effec-  
21 tively.

22           (7) It is important that the administration of  
23 export controls imposed for national security purposes  
24 give special emphasis to the need to control exports of  
25 goods and technology (and goods which contribute sig-

1 significantly to the transfer of such technology) that could  
2 make a significant contribution to the military potential  
3 of any country or combination of countries which  
4 would be detrimental to the national security of the  
5 United States.

6 (8) Further, the availability of certain materials at  
7 home and abroad varies so that the quantity and com-  
8 position of United States exports and their distribution  
9 among importing countries may affect the welfare of  
10 the domestic economy and may have an important  
11 bearing upon fulfillment of the foreign policy of the  
12 United States.

13 (9) Minimization of restrictions for reasons of na-  
14 tional security and/or foreign policy on exports of agri-  
15 cultural commodities and products is of critical impor-  
16 tance to the maintenance of a positive balance of pay-  
17 ments, to reducing the level of Federal expenditures  
18 for agricultural support programs, and to United States  
19 cooperation in efforts to eliminate malnutrition and  
20 world hunger.

21 **DECLARATION OF POLICY**

22 **SEC. 3.** The Congress makes the following declarations:

23 (1) It is the policy of the United States to mini-  
24 mize uncertainties in export control policy and to en-  
25 courage trade with all countries with which the United

1 States has diplomatic or trading relations, except those  
2 countries with which such trade has been determined  
3 by the President to be against the national interest.

4 (2) It is the policy of the United States to use  
5 export controls only after full consideration of the  
6 impact on the economy of the United States—

7 (A) to restrict the export or re-export of  
8 goods and technology which could make a signifi-  
9 cant contribution to the military potential of any  
10 other country or combination of countries which  
11 would prove detrimental to the national security  
12 of the United States;

13 (B) to restrict the export of goods and tech-  
14 nology where necessary to further significantly  
15 the foreign policy of the United States or to fulfill  
16 its declared international obligations; and

17 (C) to restrict the export of goods where nec-  
18 essary to protect the domestic economy from the  
19 excessive drain of scarce materials.

20 (3) It is the policy of the United States (A) to  
21 apply any necessary controls to the maximum extent  
22 possible in cooperation with all nations, and (B) to en-  
23 courage observance of a uniform export control policy  
24 by all nations with which the United States has de-

1       fense treaty commitments or common strategic objec-  
2       tives.

3               (4) It is the policy of the United States to use its  
4       economic resources and trade potential to further the  
5       sound growth and stability of its economy as well as to  
6       further its national security and foreign policy objec-  
7       tives.

8               (5) It is the policy of the United States—

9                       (A) to oppose restrictive trade practices or  
10       boycotts fostered or imposed by foreign countries  
11       against other countries friendly to the United  
12       States or against any United States person;

13                      (B) to encourage and, in specified cases, re-  
14       quire United States persons engaged in the export  
15       of goods or technology or other information to  
16       refuse to take actions, including furnishing infor-  
17       mation or entering into or implementing agree-  
18       ments, which have the effect of furthering or sup-  
19       porting the restrictive trade practices or boycotts  
20       fostered or imposed by any foreign country  
21       against a country friendly to the United States or  
22       against any United States person; and

23                      (C) to foster international cooperation and  
24       the development of international rules and institu-

1           tions to assure reasonable access to world sup-  
2           plies.

3           (6) It is the policy of the United States that the  
4           desirability of subjecting, or continuing to subject, par-  
5           ticular goods or technology or other information to  
6           United States export controls should be subjected to  
7           review by and consultation with representatives of ap-  
8           propriate United States Government agencies.

9           (7) It is the policy of the United States to use  
10          export controls, including license fees, to secure the re-  
11          moval by foreign countries of restrictions on access to  
12          supplies where such restrictions have or may have a  
13          serious domestic inflationary impact, have caused or  
14          may cause a serious domestic shortage, or have been  
15          imposed for purposes of influencing the foreign policy  
16          of the United States. In effecting this policy, the Presi-  
17          dent shall make reasonable prompt efforts to secure the  
18          removal or reduction of such restrictions, policies, or  
19          actions through international cooperation and agree-  
20          ment before imposing controls on exports from the  
21          United States. No action taken in fulfillment of the  
22          policy set forth in this paragraph shall apply to the  
23          export of medicine or medical supplies.

24          (8) It is the policy of the United States to use  
25          export controls to encourage other countries to take

1 immediate steps to prevent the use of their territories  
2 or resources to aid, encourage, or give sanctuary to  
3 those persons involved in directing, supporting, or par-  
4 ticipating in acts of international terrorism. To achieve  
5 this objective, the President shall make reasonable and  
6 prompt efforts to secure the removal or reduction of  
7 such assistance to international terrorists through inter-  
8 national cooperation and agreement before imposing  
9 export controls.

10 (9) It is the policy of the United States to cooper-  
11 ate with other countries with which the United States  
12 has defense treaty commitments or common strategic  
13 objectives in restricting the export of goods and tech-  
14 nology which could make a significant contribution to  
15 the military potential of any country or combination of  
16 countries which would prove detrimental to the secu-  
17 rity of the United States and of those countries with  
18 which the United States has defense treaty commit-  
19 ments or common strategic objectives.

20 (10) It is the policy of the United States to mini-  
21 mize restrictions on the export of agricultural commod-  
22 ities and products.

23 (11) It is the policy of the United States to en-  
24 courage other friendly countries to cooperate in re-



1     stricting the sale of goods and technology that can  
2     harm the security of the United States.

### 3 DEFINITIONS

4 SEC. 4. As used in this Act—

(1) the term “person” includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, but excluding technical data;

(4) the term "technology" means technological or technical data, and shall include information or know-how of any kind that can be used or adapted for use in

1 the design, production, manufacture, repair, overhaul,  
2 processing, engineering, development, operation, main-  
3 tenance, or restoration of goods or commodities, includ-  
4 ing computer software. Information or know-how may  
5 take tangible form, such as models, prototypes, draw-  
6 ings, sketches, diagrams, blueprints, or manuals, or  
7 take an intangible form, such as training or technical  
8 services. Technological data shall also include all goods  
9 or commodities that will be used in the industrial appli-  
10 cation of the technological information, regardless of  
11 the end-use classification of the goods or commodities;

12 (5) the term “export of goods” means—

13 (A) an actual shipment or transmission of  
14 goods out of the United States, or

15 (B) an actual shipment or transmission of  
16 goods, or portions thereof, originally exported  
17 from the United States to any destination other  
18 than the indicated to the appropriate United  
19 States authority as the initial destination of the  
20 goods at the time of original export from the  
21 United States.

22 (6) The term “export of technology” means—

23 (A) an actual shipment or transmission of  
24 technology out of the United States; or

1 (B) any release of technology of United  
2 States origin in a foreign country;

3 (7) the term "Director" means the Director of the  
4 Office of Strategic Trade;

5 (8) the term "Office" means the Office of Strate-  
6 gic Trade; and

7 (9) the term "United States" means the States of  
8 the United States, its commonwealths, territories  
9 (leased or owned), its dependencies, and the District of  
10 Columbia.

11 ESTABLISHMENT OF OFFICERS, FUNCTIONS, AND  
12 STRUCTURE OF OFFICE OF STRATEGIC TRADE

13 SEC. 5. (a) ESTABLISHMENT AND PRINCIPAL OFFI-  
14 CERS.—(1) There is established as an independent executive  
15 agency an Office of Strategic Trade. The Office shall be  
16 headed by a Director of Strategic Trade, who shall be ap-  
17 pointed by the President by and with the advice and consent  
18 of the Senate, and who shall serve for a term of four years,  
19 and who shall be assisted in the fulfilling of his responsibil-  
20 ities by a Deputy Director of Strategic Trade. The Office of  
21 Strategic Trade shall be administered, in accordance with the  
22 provisions of this Act, under the supervision and direction of  
23 the Director. The Director shall exercise all of the executive  
24 and administrative functions and authorities conferred in or  
25 transferred to the Office of Strategic Trade by this Act. The

1 Director or his designee shall act as Chairman of the Inter-  
2 agency Advisory Committee for Export Policy (ACEP),  
3 which shall consist of representatives from the Department of  
4 Commerce, the Department of State, the Department of De-  
5 fense, the Department of Energy, the Department of the  
6 Treasury, the Central Intelligence Agency, and the National  
7 Aeronautics and Space Administration.

8 (2) There shall be in the Office of the Director of the  
9 Office of Strategic Trade an Exporter Services Facility  
10 which shall act as liaison with the business community and  
11 shall receive and respond to inquiries from the public or inter-  
12 ested persons.

13 (b) OTHER PRINCIPAL OFFICERS.—(1) There shall be  
14 in the Office an Operations Division which shall be headed by  
15 an Assistant Director for Operations. It shall be the function  
16 of the Assistant Director for Operations to process incoming  
17 applications for export licenses, to disseminate such applica-  
18 tions to the licensing division for evaluation, and to forward  
19 approved licenses to the applicant. In addition, the Oper-  
20 ations Division shall monitor conformity of export applica-  
21 tions and licenses with the terms and conditions applicable to  
22 them. The Operations Division shall perform such other func-  
23 tions as the Director may determine to be appropriate which  
24 were carried out prior to the effective date of this Act by the  
25 Office of Export Administration's Operating Division.

1       (2) There shall be in the Office a Compliance Division  
2 which shall be headed by an Assistant Director for Compli-  
3 ance and which shall carry out functions performed prior to  
4 the effective date of this Act by the Deputy Assistant Secre-  
5 tary of Commerce for Export Enforcement. The Compliance  
6 Division may also conduct physical inspections for controlled  
7 items, and shall monitor overseas compliance with the  
8 Export Administration Act of 1979.

9       (3) There shall be in the Office a CoCom Division which  
10 shall be headed by an Assistant Director for CoCom Affairs  
11 and which shall carry out functions relating to the represen-  
12 tation of technical positions (including those of military and  
13 strategic significance) in connection with the Coordinating  
14 Committee for Multilateral Export Controls (CoCom). The  
15 CoCom Division shall also provide representatives to the De-  
16 partment of State to assist in negotiations with other mem-  
17 bers of the Coordinating Committee.

18       (4) There shall be in the Office a Licensing Division  
19 which shall be headed by an Assistant Director for Licensing  
20 and which shall be responsible to the Director for the evalua-  
21 tion of criteria and establishment of policy relating to the  
22 commodity control list, munitions control list, foreign policy  
23 controls, and short supply controls. The Licensing Division  
24 shall prepare draft documents and license criteria for license  
25 applications and submit such documents to the Advisory

1 Committee for Export Policy for review. In addition, there  
2 shall be within the Licensing Division—

3           (A) an Office of the Operating Committee, which  
4       shall disseminate license documents from the licensing  
5       officers to the interagency committee members, specify  
6       deadlines, collect responses and recommendations from  
7       the respective agencies, summarize each agency posi-  
8       tion for the Office of the Director, and prepare cases  
9       for review by the Export Administration Review  
10      Board;

11           (B) an Office of Computer Licensing, which shall  
12      prepare draft documents analyzing criteria for licensing  
13      with respect to computers in accordance with the com-  
14      modity control list;

15           (C) an Office of Capital Goods Licensing which  
16      shall prepare draft documents analyzing criteria for li-  
17      censing with respect to capital goods in accordance  
18      with the commodity control list;

19           (D) an Office of Electronics, which shall prepare  
20      draft documents analyzing criteria for licensing with  
21      respect to the field of electronics in accordance with  
22      the commodity control list;

23           (E) an Office of Short Supply Licensing which  
24      shall prepare draft documents analyzing criteria for li-  
25      censing with respect to the field of short supplies;

1 (F) an Office of Munitions Control which shall  
2 carry out the functions formerly carried out by the De-  
3 partment of State's Office of Munitions Control in  
4 maintaining the munitions control list;

5 (G) an Office of Technological Data which shall  
6 monitor and review the transfer of unembodied technol-  
7 ogy and knowledge through cultural exchange, educa-  
8 tional, or other programs or means;

9 (H) an Office of Evaluation which shall monitor  
10 and review exports under general and validated li-  
11 censes to determine whether items should be added to  
12 or deleted from commodity control lists, to assess for-  
13 eign availability and comparability, and to make peri-  
14 odic (not less often than quarterly) specific recommen-  
15 dations, regarding additions to or deletions from the  
16 commodity control list to the Assistant Director for Li-  
17 censing; and

18 (I) an Office of Foreign Policy Controls which  
19 shall formulate and maintain the list of foreign policy  
20 controls, in consultation with the Export Administra-  
21 tion Review Board.

22 (5) There shall be in the Office a General Counsel.

23 GENERAL PROVISIONS

24 SEC. 6. (a) TYPES OF LICENSES.—Under such condi-  
25 tions as may be imposed by the Director which are consistent

1 with the provisions of this Act, the Director may require any  
2 of the following types of export licenses:

3 (1) A validated license, authorizing a specific  
4 export, issued pursuant to an application by the export-  
5 er.

6 (2) A qualified general license, authorizing multi-  
7 ple exports, issued pursuant to an application by the  
8 exporter.

9 (3) A general license, authorizing exports without  
10 application by the exporter.

11 (4) Such other licenses as may assist in the effec-  
12 tive and efficient implementation of this Act.

13 (b) COMMODITY CONTROL LIST.—The Director shall  
14 establish and maintain a list (hereinafter in this Act referred  
15 to as the “commodity control list”) consisting of any goods or  
16 technology subject to export controls under this Act.

17 (c) FOREIGN AVAILABILITY.—In accordance with the  
18 provisions of this Act, the President shall not impose export  
19 controls for foreign policy or national security purposes on  
20 the export from the United States of goods or technology  
21 where he determines adequate evidence has been presented  
22 to him that the goods or technology are available without  
23 restriction from sources outside the United States in compa-  
24 rable quantities and comparable in quality to those produced  
25 in the United States, and that adequate evidence has been



1 presented to him demonstrating that the absence of such con-  
2 trols would not prove detrimental to the foreign policy or  
3 national security of the United States.

4 (d) RIGHT OF EXPORT.—No authority or permission to  
5 export may be required under this Act, or under regulations  
6 issued under this Act, except to carry out the policies set  
7 forth in section 3 of this Act.

8 (e) DELEGATION OF AUTHORITY.—The President may  
9 delegate the power, authority, and discretion conferred upon  
10 him by this Act to such departments, agencies, or officials of  
11 the Government as he may consider appropriate, except that  
12 no authority under this Act may be delegated to, or exercised  
13 by, any official of any department or agency the head of  
14 which is not appointed by the President, by and with the  
15 advice and consent of the Senate. The President may not  
16 delegate or transfer his power, authority, and discretion to  
17 overrule or modify any recommendation or decision made by  
18 the Director, the Secretary of Defense, or the Secretary of  
19 State pursuant to the provisions of this Act.

20 (f) NOTIFICATION OF THE PUBLIC; CONSULTATION  
21 WITH BUSINESS.—The Director shall keep the public fully  
22 apprised of changes in export control policy and procedures  
23 instituted in conformity with this Act with a view to encour-  
24 aging trade. The Director shall establish suitable procedures  
25 for obtaining the views of a broad spectrum of enterprises,

1 labor organizations, and citizens interested in or impacted by  
2 export controls on the United States export control policy  
3 and the foreign availability of goods and technology.

4 NATIONAL SECURITY CONTROLS

5 SEC. 7. (a) AUTHORITY.—(1) In order to carry out the  
6 policy set forth in section 3(2)(A) of this Act, the President  
7 may, in accordance with the provisions of this section, pro-  
8 hibit or curtail the export of any goods or technology subject  
9 to the jurisdiction of the United States or exported by any  
10 person subject to the jurisdiction of the United States. The  
11 authorities and duties contained in this subsection shall be  
12 exercised by the Director, in consultation with the Secretary  
13 of Defense, and such other departments and agencies as the  
14 Director considers appropriate, and shall be implemented by  
15 means of export licenses described in section 6(a) of this Act.  
16 In accordance with the provisions of section 12 of this Act,  
17 the Secretary of Defense shall have the right to review any  
18 export application under this section which the Secretary of  
19 Defense requests to review.

20 (2)(A) Whenever the Director makes any revision with  
21 respect to any goods or technology, or with respect to the  
22 countries or destinations, affected by export controls imposed  
23 under this section, the Director shall publish in the Federal  
24 Register a notice of such revision and shall specify in such

1 notice that the revision relates to controls imposed under the  
2 authority contained in this section.

3 (B) Whenever the Director denies any export license  
4 under this section, the Director shall specify in the notice to  
5 the applicant of the denial of such license that the license was  
6 denied under the authority contained in this section. The Di-  
7 rector shall also include in such notice what, if any, modifica-  
8 tions in or restrictions on the goods or technology for which  
9 the license was sought would allow such export to be com-  
10 patible with controls imposed under this section, or the Di-  
11 rector shall indicate in such notice which officers and employ-  
12 ees of the Office who are familiar with the application will be  
13 made reasonably available to the applicant for consultation  
14 with regard to such modifications or restriction, if appropri-  
15 ate.

16 (3) In issuing regulations to carry out this section, the  
17 Director shall give particular attention to the devising of ef-  
18 fective safeguards to prevent a country that poses a threat to  
19 the security of the United States from diverting covered  
20 goods and technologies to military use and to the need to  
21 take effective measures to prevent the reexport of covered  
22 goods and technologies from other countries to countries that  
23 pose a threat to the security of the United States.

24 (b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In ad-  
25 ministering export controls for national security purposes

1 under this section, United States policy toward individual  
2 countries shall not be determined exclusively on the basis of a  
3 country's Communist or non-Communist status but shall take  
4 into account such factors as whether its policies are adverse  
5 to the national security interests of the United States, the  
6 country's present and potential relationship to the United  
7 States, its present and potential relationship to countries  
8 friendly or hostile to the United States, its ability and willing-  
9 ness to control retransfers of United States exports in accord-  
10 ance with United States policy, and such other factors as the  
11 President considers appropriate. The President shall review  
12 not less frequently than every three years in the case of con-  
13 trols maintained cooperatively with other nations, and annu-  
14 ally in the case of all other controls, United States policy  
15 toward individual countries to determine whether such policy  
16 is appropriate in light of the factors specified in the preceding  
17 sentence.

18 (c) NATIONAL SECURITY CONTROL LIST.—(1) The Di-  
19 rector shall establish and maintain, as part of the commodity  
20 control list, a list of all goods and technology subject to  
21 export controls under this section. Such goods and technol-  
22 ogy shall be clearly identified as being subject to controls  
23 under this section.

24 (2) The Secretary of Defense and other appropriate de-  
25 partments and agencies shall identify goods and technology

1 for inclusion on the national security control portion of the  
2 commodity control list. Those items on which the Director  
3 and the Secretary of Defense concur shall be subject to  
4 export controls under this section shall comprise such list. If  
5 the Director and the Secretary of Defense are unable to  
6 concur on such items, the matter shall be referred by the  
7 Director to the President for resolution.

8       (3) The Director shall issue regulations providing for  
9 review of the list established pursuant to this subsection not  
10 less frequently than every three years in the case of controls  
11 maintained cooperatively with other countries, and annually  
12 in the case of all other controls, in order to carry out the  
13 policy set forth in section 3(2)(A) and the provisions of this  
14 section, and for the prompt issuance of such revisions of the  
15 list as may be necessary. Such regulations shall provide in-  
16 terested Government agencies and other affected or poten-  
17 tially affected parties with an opportunity, during such  
18 review, to submit written data, views, or arguments, with or  
19 without oral presentation. Such regulations shall further pro-  
20 vide that, as part of such review, an assessment be made of  
21 the availability from sources outside the United States of  
22 goods and technology comparable to those controlled under  
23 this section. The Director and any agency rendering advice  
24 with respect to export controls shall keep adequate records of  
25 all decisions made with respect to revision of the list of con-

1 trolled goods and technology, including the factual and ana-  
2 lytical basis for the decision, and, in the case of the Director,  
3 any dissenting recommendations received from any agency.

4 (d) **MILITARILY CRITICAL TECHNOLOGIES.**—(1) The  
5 Secretary of Defense, in consultation with the Director, shall  
6 review and revise the national security control list established  
7 pursuant to subsection (c), as prescribed in paragraph (3) of  
8 such subsection, for the purpose of insuring that export con-  
9 trols imposed under this section cover and (to the maximum  
10 extent consistent with the purposes of this Act) are limited to  
11 militarily critical goods and technologies and the mechanisms  
12 through which such goods and technologies may be effective-  
13 ly transferred.

14 (2) The Secretary of Defense shall bear primary respon-  
15 sibility for inclusion in the national security control list of the  
16 militarily critical technologies as described below. In develop-  
17 ing such items for inclusion, primary emphasis shall be given  
18 to—

19 (A) arrays of design and manufacturing know-  
20 how,

21 (B) keystone manufacturing, inspection, and test  
22 equipment,

23 (C) goods accompanied by sophisticated operation,  
24 application, or maintenance know-how, and

1           (D) goods (i) which would extend, complete, main-  
2       tain, or modernize a process line employed in the ap-  
3       plication of a militarily critical technology, or (ii) the  
4       analysis of which would reveal or give insight into a  
5       United States military system and would thereby facili-  
6       tate either the design and manufacture of that system  
7       or the development of countermeasures against that  
8       system,

9       which, as determined by the Secretary of Defense, are not  
10      possessed and able to be utilized by countries to which ex-  
11      ports are controlled under this section and which, if exported,  
12      would permit a significant advance in a military system of  
13      any such country.

14      (3) The description of the military critical technologies  
15      referred to in paragraph (2) shall be sufficiently specific to  
16      guide the determinations of any official exercising export li-  
17      censing responsibilities under this Act.

18      (e) NATIONAL SECURITY CONTROL AGENCY.—To  
19      assist in carrying out the policy and other authorities and  
20      responsibilities of the Secretary of Defense under this section,  
21      there shall be established within the office of the Under Sec-  
22      retary of Defense for Policy a National Security Control  
23      Agency. The Secretary of Defense may delegate such of  
24      those authorities and responsibilities, together with such an-  
25      cillary functions, as he may deem appropriate to the Agency.

1 (f) ANNUAL REPORT.—The Secretary of Defense shall  
2 report annually to the Congress on actions taken to carry out  
3 this section.

4 (g) EXPORT LICENSES.—(1) The Congress finds that  
5 the effectiveness and efficiency of the process of making  
6 export licensing determinations under this section is severely  
7 hampered by the large volume of validated export license ap-  
8 plications required to be submitted under this Act. Accord-  
9 ingly, it is the intent of Congress in this subsection to encour-  
10 age the use of a qualified general license in lieu of a validated  
11 license.

12 (2) To the maximum extent practicable, consistent with  
13 the national security of the United States, the Director may  
14 require a qualified general license in lieu of a validated li-  
15 cense under this section for the export of goods or technol-  
16 ogy, except where—

17 (A) the export of such goods or technology is re-  
18 stricted pursuant to a multilateral agreement, formal or  
19 informal, to which the United States is a party and,  
20 under the terms of such multilateral agreement, such  
21 export requires the specific approval of the parties to  
22 such multilateral agreement; or

23 (B) the United States is seeking the agreement of  
24 other suppliers to apply comparable controls to such  
25 goods or technology and, in the judgment of the Direc-



1       tor, United States export controls on such goods or  
2       technology, by means of such validated license, are  
3       necessary prior to the conclusion of such agreement.

4       (3) To the maximum extent practicable, consistent with  
5       the national security of the United States, the Director may  
6       require a qualified general license, in lieu of a validated li-  
7       cense, under this section for the export of goods or technol-  
8       ogy if the export of such goods or technology is restricted  
9       pursuant to a multilateral agreement, formal or informal, to  
10      which the United States is a party, but such export does not  
11      require the specific approval of the parties to such multilater-  
12      al agreement.

13      (h) FOREIGN AVAILABILITY.—(1) The Director, in con-  
14      sultation with the Secretary of Defense and such other Gov-  
15      ernment agencies as may be appropriate in the circumstances  
16      as well as with such technical advisory committees estab-  
17      lished pursuant to subsection (i) as the Director may deem  
18      appropriate, shall review, on a continuing basis, the availabil-  
19      ity, to countries to which exports are controlled under this  
20      section, from sources outside the United States, including  
21      countries which participate with the United States in multi-  
22      lateral export controls, of any goods or technology the export  
23      of which requires a validated license under this section. In  
24      any case in which the Director determines, in accordance  
25      with procedures and criteria which the Director shall by reg-

1 ulation establish, that any such goods or technologies are  
2 available in fact to such destinations from such sources in  
3 comparable quantity and of comparable quality so that the  
4 requirement of a validated license for the export of such  
5 goods or technology would have no effect in achieving the  
6 purpose set forth in subsection (a) of this section, the Director  
7 may not, after the determination is made, require a validated  
8 license for the export of such goods or technology during the  
9 period of such foreign availability, unless the President deter-  
10 mines that the absence of export controls under this section  
11 would prove detrimental to the national security of the  
12 United States. In any case in which the President determines  
13 that export controls under this section must be maintained  
14 notwithstanding foreign availability, the Director shall pub-  
15 lish that determination together with a concise statement of  
16 its basis, and the estimated economic impact of the decision.

17 (2) Subject to paragraph (4), the Director shall approve  
18 any application for a validated license which is required under  
19 this section for the export of any goods or technology to a  
20 particular country and which meets all other requirements for  
21 such an application, if the Director determines that such  
22 goods or technology will, if the license is denied, be available  
23 in fact to such country from sources outside the United  
24 States, including countries which participate with the United  
25 States in multilateral export controls, in comparable quantity

1 and of comparable quality so that denial of the license would  
2 be ineffective in achieving the purpose set forth in subsection  
3 (a) of this section, subject to the exception set forth in para-  
4 graph (1) of this subsection. In any case in which the Direc-  
5 tor makes a determination of foreign availability under this  
6 paragraph with respect to any goods or technology, the Di-  
7 rector shall determine whether a determination of foreign  
8 availability under paragraph (1) with respect to such goods or  
9 technology is warranted.

10 (3) With respect to export controls imposed under this  
11 section, any determination of foreign availability which is the  
12 basis of a decision to grant a license for, or to remove a  
13 control on, the export of a good or technology, shall be made  
14 in writing and shall be supported by reliable evidence, includ-  
15 ing scientific or physical examination, expert opinion based  
16 upon adequate factual information, or intelligence informa-  
17 tion. In assessing foreign availability with respect to license  
18 applications, uncorroborated representations by applicants  
19 shall not be deemed sufficient evidence of foreign availability.

20 (4) A technology or good proposed for, or subject to,  
21 export control for national security purposes, which is not  
22 possessed in comparable quantity or quality by a nation or  
23 combination of nations threatening to the national security of  
24 the United States, shall not be deemed to be available to that  
25 nation or combination of nations from foreign sources until

1 the Secretary of State verifies that negotiations with the ap-  
2 propriate foreign governments have been undertaken. For  
3 purposes of this Act, assessment of comparable quantity or  
4 quality shall include but not be limited to the following fac-  
5 tors: cost, reliability, the availability and reliability of spare  
6 parts and the cost and quality thereof, maintenance pro-  
7 grams, technological data packages, backup packages, long-  
8 term durability, scale of production, ease with which machin-  
9 ery will be integrated in the mode of production, and spoil-  
10 ages and tolerance factors for end products produced by the  
11 machinery. In any case in which, in accordance with this  
12 subsection, export controls are imposed under this section  
13 notwithstanding foreign availability, the President shall take  
14 steps to initiate negotiations with the governments of the ap-  
15 propriate foreign countries for the purpose of eliminating such  
16 availability. Whenever the President has reason to believe  
17 goods or technology subject to export control for national se-  
18 curity purposes by the United States may become available  
19 from other countries to countries to which exports are con-  
20 trolled under this section and that such availability can be  
21 prevented or eliminated by means of negotiations with such  
22 other countries, the President shall promptly initiate negotia-  
23 tions with the governments of such other countries to prevent  
24 such foreign availability.

1       (5) In order to further carry out the policies set forth in  
2 this Act, the Director shall establish within the Office a capa-  
3 bility to monitor and gather information with respect to the  
4 foreign availability of any goods or technology subject to  
5 export controls under this Act.

6       (6) Each department or agency of the United States  
7 with responsibilities with respect to export controls, including  
8 intelligence agencies, shall, consistent with the protection of  
9 intelligence sources and methods, furnish information to the  
10 Office concerning foreign availability of goods and technology  
11 subject to export controls under this Act, and the Office,  
12 upon request or where appropriate, shall furnish to such de-  
13 partments and agencies the information it gathers and re-  
14 ceives concerning foreign availability.

15       (i) TECHNICAL ADVISORY COMMITTEES.—(1) Upon  
16 written request by representatives of a substantial segment of  
17 any industry which produces any goods or technology subject  
18 to export controls under this section or being considered for  
19 such controls because of their significance to the national se-  
20 curity of the United States, the Director shall appoint a tech-  
21 nical advisory committee for any such goods or technology  
22 which the Director determines are difficult to evaluate be-  
23 cause of questions concerning technical matters, worldwide  
24 availability, and actual utilization of production and technol-  
25 ogy, or licensing procedures. Each such committee shall con-

1 sist of representatives of United States industry and Govern-  
2 ment, including the Departments of Defense, State, Com-  
3 merce, the intelligence community, and, in the discretion of  
4 the Director, other Government departments and agencies.  
5 No person serving on any such committee who is a repre-  
6 sentative of industry shall serve on such committee for more  
7 than four consecutive years.

8       (2) Technical advisory committees established under  
9 paragraph (1) shall advise and assist the Director, the Secre-  
10 tary of Defense, and any other department, agency, or official  
11 of the Government of the United States to which the Presi-  
12 dent delegates authority under this Act, with respect to ac-  
13 tions designed to carry out the policy set forth in section  
14 3(2)(A) of this Act. Nothing in this subsection shall prevent  
15 the Director or the Secretary of Defense from consulting, at  
16 any time, with any person representing industry or the gener-  
17 al public, regardless of whether such person is a member of a  
18 technical advisory committee. Members of the public shall be  
19 given a reasonable opportunity, pursuant to regulations pre-  
20 scribed by the Director, to present relevant material to such  
21 committees.

22       (3) Upon request of any member of any such committee,  
23 the Director may, if the Director determines it appropriate,  
24 reimburse such member for travel, subsistence, and other

1 necessary expenses incurred by such member in connection  
2 with the duties of such member.

3 (4) Each such committee shall elect a chairman, and  
4 shall meet at least every three months at the call of the  
5 chairman, unless the chairman determines, in consultation  
6 with the other members of the committee, that such a meet-  
7 ing is not necessary to achieve the purposes of this subsec-  
8 tion. Each such committee shall be terminated after a period  
9 of two years, unless extended by the Director for additional  
10 periods of two years. The Director shall consult each such  
11 committee with respect to such termination or extension of  
12 that committee.

13 (5) To facilitate the work of the technical advisory com-  
14 mittees, the Director, in conjunction with other departments  
15 and agencies participating in the administration of this Act,  
16 shall disclose to each such committee adequate information,  
17 consistent with national security, pertaining to the reasons  
18 for the export controls which are in effect or contemplated for  
19 the goods or technology with respect to which that commit-  
20 tee furnishes advice.

21 (6) Subject to subsection (h)(4) of this section, whenever  
22 a technical advisory committee certifies to the Director that  
23 goods or technology with respect to which such committee  
24 was appointed have become available in fact, to countries to  
25 which exports are controlled under this section, from sources

1 outside the United States, including countries which partici-  
2 pate with the United States in multilateral export controls, in  
3 comparable quantity and of comparable quality so that requir-  
4 ing a validated license for the export of such goods or tech-  
5 nology would be ineffective in achieving the purpose set forth  
6 in subsection (a) of this section, and provides adequate docu-  
7 mentation for such certification, in accordance with the pro-  
8 cedures established pursuant to subsection (h)(1) of this sec-  
9 tion, the Director shall investigate such availability, and if  
10 such availability is verified, the Director shall remove the  
11 requirement of a validated license for the export of the goods  
12 or technology, unless the President determines that the ab-  
13 sence of export controls under this section would prove detri-  
14 mental to the national security of the United States. In any  
15 case in which the President determines that export controls  
16 under this section must be maintained notwithstanding for-  
17 eign availability, the Director shall publish that determination  
18 together with a concise statement of its basis and the esti-  
19 mated economic impact of the decision.

20 (j) MULTILATERAL EXPORT CONTROLS.—The Presi-  
21 dent shall enter into negotiations with the governments par-  
22 ticipating in the group known as the Coordinating Committee  
23 (hereinafter in this subsection referred to as the “Commit-  
24 tee”) with a view toward accomplishing the following objec-  
25 tives:



1           (1) Agreement to publish the list of items con-  
2           trolled for export by agreement of the Committee.

3           (2) Agreement to hold periodic meetings with  
4           high-level representatives of such governments, for the  
5           purpose of discussing export control policy issues and  
6           issuing policy guidance to the Committee.

7           (3) Agreement on more effective procedures for  
8           enforcing the export controls referred to in paragraph  
9           (1).

10          (k) COMMERCIAL AGREEMENTS WITH CERTAIN  
11 COUNTRIES.—(1) Any United States firm, enterprise, or  
12 other nongovernmental entity which enters into any agree-  
13 ment with any agency of the government of a country to  
14 which exports are restricted for national security purposes,  
15 which calls for the encouragement of technical cooperation  
16 and is intended to result in the export from the United States  
17 to the other party of unpublished technical data of United  
18 States origin, shall report the agreement with such agency  
19 with sufficient detail to the Director.

20          (2) The provisions of paragraph (1) shall not apply to  
21 colleges, universities, or other educational institutions, except  
22 where the unpublished technical data involve a technology  
23 identified by the Secretary of Defense as a militarily critical  
24 technology.

1       (l) **NEGOTIATIONS WITH OTHER COUNTRIES.**—The  
2 Secretary of State, in consultation with the Secretary of De-  
3 fense, the Director, and the heads of other appropriate de-  
4 partments and agencies, shall be responsible for conducting  
5 negotiations with other countries regarding their cooperation  
6 in restricting the export of goods and technology in order to  
7 carry out the policy set forth in section 3(9) of this Act, as  
8 authorized by subsection (a) of this section, including negotia-  
9 tions with respect to which goods and technology should be  
10 subject to multilaterally agreed export restrictions and what  
11 conditions should apply for exceptions from those restrictions.

12       (m) **DIVERSION TO MILITARY USE OF CONTROLLED**  
13 **GOODS OR TECHNOLOGY.**—(1) Whenever there is reliable  
14 evidence that goods or technology which were exported sub-  
15 ject to national security controls under this section to a coun-  
16 try to which exports are controlled for national security pur-  
17 poses have been diverted to an unauthorized use or consignee  
18 in violation of the conditions of an export license, the Direc-  
19 tor for as long as that diversion continues—

20               (A) shall deny all further exports to or by the  
21 party or parties responsible for that diversion of any  
22 goods or technology subject to national security con-  
23 trols under this section to an unauthorized use or con-  
24 signee regardless of whether such goods or technology

1 are available to that country from sources outside the  
2 United States; and

3 (B) may take such additional steps under this Act  
4 with respect to the party or parties referred to in sub-  
5 paragraph (A) as he determines are appropriate in the  
6 circumstances to deter the further unauthorized use of  
7 the previously exported goods or technology.

8 (2) As used in this subsection, the term “diversion to an  
9 unauthorized use or consignee” means the use of United  
10 States goods or technology to design or produce or maintain  
11 or contribute to the design, production, or maintenance of  
12 any item on the United States Munitions List, or the transfer  
13 of United States goods or technology to any consignee or end  
14 user engaged in or contributing to such design, production, or  
15 maintenance.

16 (n) RECORDKEEPING.—The Director, the Secretary of  
17 Defense, and any other department or agency consulted in  
18 connection with a license application or revision of a list of  
19 controlled commodities, goods, or technologies, shall make  
20 and keep records of their respective advice, recommenda-  
21 tions, or decisions, including the factual and analytical basis  
22 of the advice, recommendations, or decisions.

23 FOREIGN POLICY CONTROLS

24 SEC. 8. (a) AUTHORITY.—(1) In order to carry out the  
25 policy set forth in paragraph (2)(B), (7), or (8) of section 3 of

1 this Act, the President may prohibit or curtail the exportation  
2 of any goods, technology, or other information subject to the  
3 jurisdiction of the United States or exported by any person  
4 subject to the jurisdiction of the United States, to the extent  
5 necessary to further significantly the foreign policy of the  
6 United States or to fulfill its declared international obliga-  
7 tions. The authority granted by this subsection shall be exer-  
8 cised by the Director, in consultation with the Secretary of  
9 State and such other departments and agencies as the Direc-  
10 tor considers appropriate, and shall be implemented by means  
11 of export licenses issued by the Director.

12 (2) Export controls maintained for foreign policy pur-  
13 poses shall expire one year after imposition unless extended  
14 by the President in accordance with subsections (b) and (e).  
15 Any such extension and any subsequent extension shall not  
16 be for a period of more than one year.

17 (3) Whenever the Director denies any export license  
18 under this subsection, the Director shall specify in the notice  
19 to the applicant of the denial of such license that the license  
20 was denied under the authority contained in this subsection,  
21 and the reasons for such denial, with reference to the criteria  
22 set forth in subsection (b) of this section. The Director shall  
23 also include in such notice what, if any, modifications in or  
24 restrictions on the goods or technology for which the license  
25 was sought would allow such export to be compatible with

1 controls implemented under this section, or the Director shall  
2 indicate in such notice which officers and employees of the  
3 Office who are familiar with the application will be made  
4 reasonably available to the applicant for consultation with  
5 regard to such modifications or restrictions, if appropriate.

6 (4) In accordance with the provisions of section 12 of  
7 this Act, the Secretary of State shall have the right to review  
8 any export license application under this section which the  
9 Secretary of State requests to review.

10 (b) CRITERIA.—When imposing, expanding, or  
11 extending export controls under this section, the President  
12 shall consider—

13 (1) the probability that such controls will achieve  
14 the intended foreign policy purpose, in light of other  
15 factors, including the availability from other countries  
16 of the goods of technology proposed for such controls;

17 (2) the compatibility of the proposed controls with  
18 the foreign policy objectives of the United States, in-  
19 cluding the effort to counter international terrorism,  
20 and with overall United States policy toward the coun-  
21 try which is the proposed target of the controls;

22 (3) the reaction of other countries to the imposi-  
23 tion or expansion of such export controls by the United  
24 States;

1           (4) the likely effects of the proposed controls on  
2           the export performance of the United States, on the  
3           competitive position of the United States in the inter-  
4           national economy, on the international reputation of  
5           the United States as a supplier of goods and technol-  
6           ogy, and on individual United States companies and  
7           their employees and communities, including the effects  
8           of the controls on existing contracts;

9           (5) the ability of the United States to enforce the  
10          proposed controls effectively; and

11          (6) the foreign policy consequences of not impos-  
12          ing controls.

13          (c) CONSULTATION WITH INDUSTRY.—The Director,  
14          before imposing export controls under this section, shall con-  
15          sult with such affected United States industries as the Direc-  
16          tor considers appropriate, with respect to the criteria set  
17          forth in paragraphs (1) and (4) of subsection (b) and such  
18          other matters as the Director considers appropriate.

19          (d) ALTERNATIVE MEANS.—Before resorting to the im-  
20          position of export controls under this section, the President  
21          shall determine that reasonable efforts have been made to  
22          achieve the purposes of the controls through negotiations or  
23          other alternative means.

24          (e) NOTIFICATION TO CONGRESS.—The President in  
25          every possible instance shall consult with the Congress before

1 imposing any export control under this section. Except as  
2 provided in section 9(g)(3) of this Act, whenever the Presi-  
3 dent imposes, expands, or extends export controls under this  
4 section, the President shall immediately notify the Congress  
5 of such action and shall submit with such notification a report  
6 specifying—

7           (1) the conclusions of the President with respect  
8           to each of the criteria set forth in subsection (b); and

9           (2) the nature and results of any alternative  
10          means attempted under subsection (d), or the reasons  
11          for imposing, extending, or expanding the control with-  
12          out attempting any such alternative means.

13 Such report shall also indicate how such controls will further  
14 significantly the foreign policy of the United States or will  
15 further its declared international obligations. To the extent  
16 necessary to further the effectiveness of such export control,  
17 portions of such report may be submitted on a classified basis,  
18 and shall be subject to the provisions of section 14(c) of this  
19 Act.

20           (f) **EXCLUSION FOR MEDICINE AND MEDICAL SUP-**  
21 **PLIES AND FOR CERTAIN FOOD EXPORTS.**—This section  
22 does not authorize export controls on medicine, or medical  
23 supplies. Before export controls on food are imposed, expand-  
24 ed, or extended under this section, the Director shall notify  
25 the Secretary of State in the case of export controls applica-

1 ble with respect to any developed country and shall notify the  
2 Director of the United States International Development Co-  
3 operation Agency (IDCA) in the case of export controls ap-  
4 plicable with respect to any developing country. The Secre-  
5 tary of State with respect to developed countries, and the  
6 Director of the IDCA with respect to developing countries,  
7 shall determine whether the proposed export controls on food  
8 would cause measurable malnutrition and shall inform the Di-  
9 rector of that determination. If the Director is informed that  
10 the proposed export controls on food would cause measurable  
11 malnutrition, then those controls may not be imposed, ex-  
12 panded, or extended, as the case may be, unless the Presi-  
13 dent determines that those controls are necessary to protect  
14 the national security interests of the United States, or unless  
15 the President determines that arrangements are insufficient  
16 to ensure that the food will reach those most in need. Each  
17 such determination by the Secretary of State or the Director  
18 of the United States International Development Cooperation  
19 Agency, and any such determination by the President, shall  
20 be reported to the Congress, together with a statement of the  
21 reasons for that determination. It is the intent of Congress  
22 that the President not impose export controls under this sec-  
23 tion on any goods or technology if he determines that the  
24 principal effect of the export of such goods or technology  
25 would be to help meet basic human needs. This subsection



1 shall not be construed to prohibit the President from impos-  
2 ing restrictions on the export of medicine or medical supplies  
3 or of food under the International Emergency Economic  
4 Powers Act. This subsection does not apply to any export  
5 control on medicine or medical supplies which is in effect on  
6 the effective date of the Export Administration Act of 1979  
7 or to any export control on food which is in effect on the date  
8 of the enactment of the Export Administration Amendments  
9 Act of 1981.

10 (g) FOREIGN AVAILABILITY.—In applying export con-  
11 trols under this section, the President shall take all feasible  
12 steps to initiate and conclude negotiations with appropriate  
13 foreign governments for the purpose of securing the coopera-  
14 tion of such foreign governments in controlling the export to  
15 countries and consignees to which the United States export  
16 controls apply of any goods or technology comparable to  
17 goods or technology controlled under this section.

18 (h) INTERNATIONAL OBLIGATIONS.—The provisions of  
19 subsections (b), (c), (d), (f), and (g) shall not apply in any case  
20 in which the President exercises the authority contained in  
21 this section to impose export controls, or to approve or deny  
22 export license applications, in order to fulfill obligations of  
23 the United States pursuant to treaties to which the United  
24 States is a party or pursuant to other international agree-  
25 ments.

1       (i) COUNTRIES SUPPORTING INTERNATIONAL TER-  
2       ROBISM.—The Director and the Secretary of State shall  
3       notify the Committee on Foreign Affairs of the House of  
4       Representatives and the Committee on Banking, Housing,  
5       and Urban Affairs of the Senate before any license is ap-  
6       proved for the export of goods or technology valued at more  
7       than \$7,000,000 to any country concerning which the Secre-  
8       tary of State has made the following determinations:

9               (1) Such country has repeatedly provided support  
10       for acts of international terrorism.

11              (2) Such exports would make a significant contri-  
12       bution to the military potential of such country, includ-  
13       ing its military logistics capability, or would enhance  
14       the ability of such country to support acts of interna-  
15       tional terrorism.

16       (j) CRIME CONTROL INSTRUMENTS.—(1) Crime control  
17       and detection instruments and equipment shall be approved  
18       for export by the Director only pursuant to a validated export  
19       license.

20              (2) The provisions of this subsection shall not apply with  
21       respect to exports to countries which are members of the  
22       North Atlantic Treaty Organization or to Japan, Australia,  
23       or New Zealand, or to such other countries as the President  
24       shall designate consistent with the purposes of this subsection  
25       and section 502B of the Foreign Assistance Act of 1961.

1       (k) **CONTROL LIST.**—The Director shall establish and  
2 maintain, as part of the commodity control list, a list of any  
3 goods or technology subject to export controls under this sec-  
4 tion, and the countries to which such controls apply. Such  
5 goods or technology shall be clearly identified as subject to  
6 controls under this section. Such list shall consist of goods  
7 and technology identified by the Secretary of State, with the  
8 concurrence of the Director. If the Director and the Secre-  
9 tary of State are unable to agree on the list, the matter shall  
10 be referred by the Director to the President. Such list shall  
11 be reviewed not less frequently than every three years in the  
12 case of controls maintained cooperatively with other coun-  
13 tries, and annually in the case of all other controls, for the  
14 purpose of making such revisions as are necessary in order to  
15 carry out this section. During the course of such review, an  
16 assessment shall be made periodically of the availability from  
17 sources outside the United States, or any of its territories or  
18 possessions, of goods and technology comparable to those  
19 controlled for export from the United States under this  
20 section.

21                               **SHORT SUPPLY CONTROLS**

22       **SEC. 9. (a) AUTHORITY.**—(1) In order to carry out the  
23 policy set forth in section 3(2)(C) of this Act, the President  
24 may prohibit or curtail the export of any goods subject to the  
25 jurisdiction of the United States or exported by any person

1 subject to the jurisdiction of the United States. In curtailing  
2 exports to carry out the policy set forth in section 3(2)(C) of  
3 this Act, the President shall allocate a portion of export li-  
4 censes on the basis of factors other than a prior history of  
5 exportation. Such factors shall include the extent to which a  
6 country engages in equitable trade practices with respect to  
7 United States goods and treats the United States equitably in  
8 times of short supply.

9       (2) Upon imposing quantitative restrictions on exports of  
10 any goods to carry out the policy set forth in section 3(2)(C)  
11 of this Act, the Director shall include in a notice published in  
12 the Federal Register with respect to such restrictions an invi-  
13 tation to all interested parties to submit written comments  
14 within fifteen days from the date of publication on the impact  
15 of such restrictions and the method of licensing used to imple-  
16 ment them.

17       (3) In imposing export controls under this section, the  
18 President's authority shall include, but not be limited to, the  
19 imposition of export license fees.

20       (b) MONITORING.—(1) In order to carry out the policy  
21 set forth in section 3(2)(C) of this Act, the Secretary of Com-  
22 merce shall monitor exports, and contracts for exports, of any  
23 good (other than a commodity which is subject to the report-  
24 ing requirements of section 812 of the Agricultural Act of  
25 1970) when the volume of such exports in relation to domes-

1 tic supply contributes, or may contribute, to an increase in  
2 domestic prices or a domestic shortage, and such price in-  
3 crease or shortage has, or may have, a serious adverse  
4 impact on the economy or any sector thereof. Any such moni-  
5 toring shall commence at a time adequate to assure that the  
6 monitoring will result in a data base sufficient to enable poli-  
7 cies to be developed, in accordance with section 3(2)(C) of  
8 this Act, to mitigate a short supply situation or serious infla-  
9 tionary price rise or, if export controls are needed, to permit  
10 imposition of such controls in a timely manner. Information  
11 which the Secretary of Commerce requires to be furnished in  
12 effecting such monitoring shall be confidential, except as pro-  
13 vided in paragraph (2) of this subsection.

14 (2) The results of such monitoring shall, to the extent  
15 practicable, be aggregated and included in weekly reports  
16 setting forth, with respect to each item monitored, actual and  
17 anticipated exports, the destination by country, and the do-  
18 mestic and worldwide price, supply, and demand. Such re-  
19 ports may be made monthly if the Secretary of Commerce  
20 determines that there is insufficient information to justify  
21 weekly reports.

22 (3) The Director shall consult with the Secretary of  
23 Energy to determine whether monitoring or export controls  
24 under this section are warranted with respect to exports of  
25 facilities, machinery, or equipment normally and principally

1 used, or intended to be used, in the production, conversion, or  
2 transportation of fuels and energy (except nuclear energy),  
3 including, but not limited to, drilling rigs, platforms, and  
4 equipment; petroleum refineries, natural gas processing, liq-  
5 uefaction, and gasification plants; facilities for production of  
6 synthetic natural gas or synthetic crude oil; oil and gas pipe-  
7 lines, pumping stations, and associated equipment; and ves-  
8 sels for transporting oil, gas, coal, and other fuels.

9 (c) PETITIONS FOR MONITORING OR CONTROLS.—

10 (1)(A) Any entity, including a trade association, firm, or certi-  
11 fied or recognized union or group of workers, which is repre-  
12 sentative of an industry or a substantial segment of an indus-  
13 try which processes metallic materials capable of being recy-  
14 cled with respect to which an increase in domestic prices or a  
15 domestic shortage, either of which results from increased ex-  
16 ports, has or may have a significant adverse effect on the  
17 national economy or any sector thereof, may transmit a writ-  
18 ten petition to the Director requesting the monitoring of ex-  
19 ports, or the imposition of export controls, or both, with re-  
20 spect to such material, in order to carry out the policy set  
21 forth in section 3(2)(C) of this Act.

22 (B) Each petition shall be in such form as the Director  
23 shall prescribe and shall contain information in support of the  
24 action requested. The petition shall include any information  
25 reasonably available to the petitioner indicating (i) that there

1 has been a significant increase, in relation to a specific period  
2 of time, in exports of such material in relation to domestic  
3 supply, and (ii) that there has been a significant increase in  
4 the price of such material or a domestic shortage of such  
5 material under circumstances indicating the price increase or  
6 domestic shortage may be related to exports.

7       (2) Within fifteen days after receipt of any petition de-  
8 scribed in paragraph (1), the Director shall publish a notice in  
9 the Federal Register. The notice shall (A) include the name  
10 of the material which is the subject of the petition, (B) in-  
11 clude the Schedule B number of the material as set forth in  
12 the Statistical Classification of Domestic and Foreign Com-  
13 modities Exported from the United States, (C) indicate  
14 whether the petitioner is requesting that controls or monitor-  
15 ing, or both, be imposed with respect to the exportation of  
16 such material, and (D) provide that interested persons shall  
17 have a period of thirty days commencing with the date of  
18 publication of such notice to submit to the Director written  
19 data, views, or arguments, with or without opportunity for  
20 oral presentation, with respect to the matter involved. At the  
21 request of the petitioner or any other entity described in  
22 paragraph (1)(A) with respect to the material which is the  
23 subject of the petition, or at the request of any entity repre-  
24 sentative of producers or exporters of such material, the Di-  
25 rector shall conduct public hearings with respect to the sub-

1 ject of the petition, in which case the thirty-day period may  
2 be extended to forty-five days.

3 (3) Within forty-five days after the end of the thirty- or  
4 forty-five-day period described in paragraph (2), as the case  
5 may be, the Director, in consultation with the Secretary of  
6 Commerce, shall—

7 (A) determine to impose monitoring or controls, or  
8 both, on the export of such material, in order to carry  
9 out the policy set forth in section 3(2)(C) of this Act;  
10 and

11 (B) publish in the Federal Register a detailed  
12 statement of the reasons for such determination.

13 (4) Within fifteen days after making a determination  
14 under paragraph (3) to impose monitoring or controls on the  
15 export of a material, the Director shall publish in the Federal  
16 Register proposed regulations with respect to such monitor-  
17 ing or controls. Within thirty days following the publication  
18 of such proposed regulations, and after considering any public  
19 comments thereon, the Director shall publish and implement  
20 final regulations with respect to such monitoring or controls.

21 (5) For purposes of publishing notices in the Federal  
22 Register and scheduling public hearings pursuant to this sub-  
23 section, the Director may consolidate petitions, and responses  
24 thereto, which involve the same or related materials.



1       (6) If a petition with respect to a particular material or  
2 group of materials has been considered in accordance with all  
3 the procedures prescribed in this subsection, the Director  
4 may determine, in the absence of significantly changed cir-  
5 cumstances, that any other petition with respect to the same  
6 material or group of materials which is filed within 6 months  
7 after consideration of the prior petition has been completed  
8 does not merit complete consideration under this subsection.

9       (7) The procedures and time limits set forth in this sub-  
10 section with respect to a petition filed under this subsection  
11 shall take precedence over any review undertaken at the ini-  
12 tiative of the Director with respect to the same subject as  
13 that of the petition.

14       (8) The Director may impose monitoring or controls on  
15 a temporary basis after a petition is filed under paragraph  
16 (1)(A) but before the Director makes a determination under  
17 paragraph (3) if the Director considers such action to be nec-  
18 essary to carry out the policy set forth in section 3(2)(C) of  
19 this Act.

20       (9) The authority under this subsection shall not be con-  
21 strued to affect the authority of the Director under any other  
22 provision of this Act.

23       (10) Nothing contained in this subsection shall be con-  
24 strued to preclude submission on a confidential basis to the  
25 Director of information relevant to a decision to impose or

1 remove monitoring or controls under the authority of this  
2 Act, or to preclude consideration of such information by the  
3 Director in reaching decisions required under this subsection.  
4 The provisions of this paragraph shall not be construed to  
5 affect the applicability of section 552(b) of title 5, United  
6 States Code.

7 (d) DOMESTICALLY PRODUCED CRUDE OIL.—(1) Not-  
8 withstanding any other provision of this Act and notwith-  
9 standing subsection (u) of section 28 of the Mineral Leasing  
10 Act of 1920 (30 U.S.C. 185), no domestically produced crude  
11 oil transported by pipeline over right-of-way granted pursu-  
12 ant to section 203 of the Trans-Alaska Pipeline Authoriza-  
13 tion Act (43 U.S.C. 1652) (except any such crude oil which  
14 (A) is exported to an adjacent foreign country to be refined  
15 and consumed therein in exchange for the same quantity of  
16 crude oil being exported from that country to the United  
17 States; such exchange must result through convenience or  
18 increased efficiency of transportation in lower prices for con-  
19 sumers of petroleum products in the United States as de-  
20 scribed in paragraph (2)(A)(ii) of this subsection, or (B) is  
21 temporarily exported for convenience or increased efficiency  
22 of transportation across parts of an adjacent foreign country  
23 and reenters the United States) may be exported from the  
24 United States, or any of its territories and possessions, unless  
25 the requirements of paragraph (2) of this subsection are met.

1       (2) Crude oil subject to the prohibition contained in  
2 paragraph (1) may be exported only if—

3           (A) the President makes and publishes express  
4 findings that exports of such crude oil, including ex-  
5 changes—

6               (i) will not diminish the total quantity or  
7 quality of petroleum refined within, stored within,  
8 or legally committed to be transported to and sold  
9 within the United States;

10              (ii) will, within three months following the  
11 initiation of such exports or exchanges, result in  
12 (I) acquisition costs to the refiners which purchase  
13 the imported crude oil being lower than the acqui-  
14 sition costs such refiners would have to pay for  
15 the domestically produced oil in the absence of  
16 such an export or exchange, and (II) not less than  
17 75 per centum of such savings in costs being re-  
18 flected in wholesale and retail prices of products  
19 refined from such imported crude oil;

20              (iii) will be made only pursuant to contracts  
21 which may be terminated if the crude oil supplies  
22 of the United States are interrupted, threatened,  
23 or diminished;

24              (iv) are clearly necessary to protect the na-  
25 tional interest; and

1                   (v) are in accordance with the provisions of  
2                   this Act; and

3                   (B) the President reports such findings to the  
4                   Congress and the Congress, within fifty days thereaf-  
5                   ter, agrees to a concurrent resolution approving such  
6                   exports on the basis of the findings.

7                   (3) Notwithstanding any other provision of this section  
8                   or any other provision of law, including subsection (u) of sec-  
9                   tion 28 of the Mineral Leasing Act of 1920, the President  
10                  may export oil to any country pursuant to a bilateral interna-  
11                  tional oil supply agreement entered into by the United States  
12                  with such nation before June 25, 1979, or to any country  
13                  pursuant to the International Emergency Oil Sharing Plan of  
14                  the International Energy Agency.

15                  (e) REFINED PETROLEUM PRODUCTS.—(1) No refined  
16                  petroleum product may be exported except pursuant to an  
17                  export license specifically authorizing such export. Not later  
18                  than five days after an application for a license to export any  
19                  refined petroleum product or residual fuel oil is received, the  
20                  Director shall notify the Congress of such application, togeth-  
21                  er with the name of the exporter, the destination of the pro-  
22                  posed export, and the amount and price of the proposed  
23                  export. Such notification shall be made to the chairman of the  
24                  Committee on Foreign Affairs of the House of Representa-

1 tives and the chairman of the Committee on Banking, Hous-  
2 ing, and Urban Affairs of the Senate.

3       (2) The Director may not grant such license during the  
4 thirty-day period beginning on the date on which notification  
5 to the Congress under paragraph (1) is received, unless the  
6 President certifies in writing to the Speaker of the House of  
7 Representatives and the President pro tempore of the Senate  
8 that the proposed export is vital to the national interest and  
9 that a delay in issuing the license would adversely affect that  
10 interest.

11       (3) This subsection shall not apply to (A) any export  
12 license application for exports to a country with respect to  
13 which historical export quotas established on the basis of past  
14 trading relationships apply, or (B) any license application for  
15 exports to a country if exports under the license would not  
16 result in more than two hundred and fifty thousand barrels of  
17 refined petroleum products being exported from the United  
18 States to such country in any fiscal year.

19       (4) For purposes of this subsection, "refined petroleum  
20 product" means gasoline, kerosene, distillates, propane or  
21 butane gas, diesel fuel, and residual fuel oil refined within the  
22 United States or entered for consumption within the United  
23 States.

24       (5) The Director may extend any time period prescribed  
25 in section 12 of this Act to the extent necessary to take into

1 account delays in action by the Director on a license applica-  
2 tion on account of the provisions of this subsection.

3 (f) CERTAIN PETROLEUM PRODUCTS.—Petroleum  
4 products refined in United States Foreign Trade Zones, or in  
5 the United States Territory of Guam, from foreign crude oil  
6 shall be excluded from any quantitative restrictions imposed  
7 under this section except that, if the Director finds that a  
8 product is in short supply, the Director may issue such regu-  
9 lations as may be necessary to limit exports.

10 (g) AGRICULTURAL COMMODITIES.—(1) The authority  
11 conferred by this section shall not be exercised with respect  
12 to any agricultural commodity, including fats and oils or  
13 animal hides or skins, without the approval of the Secretary  
14 of Agriculture. The Secretary of Agriculture shall not ap-  
15 prove the exercise of such authority with respect to any such  
16 commodity during any period for which the supply of such  
17 commodity is determined by the Secretary of Agriculture to  
18 be in excess of the requirements of the domestic economy  
19 except to the extent the President determines that such exer-  
20 cise of authority is required to carry out the policies set forth  
21 in subparagraph (A) or (B) of paragraph (2) of section 3 of  
22 this Act. The Secretary of Agriculture shall, by exercising  
23 the authorities which the Secretary of Agriculture has under  
24 other applicable provisions of law, collect data with respect  
25 to export sales of animal hides and skins.

1       (2) Upon approval of the Director, in consultation with  
2 the Secretary of Agriculture, agricultural commodities pur-  
3 chased by or for use in a foreign country may remain in the  
4 United States for export at a later date free from any quanti-  
5 tative limitations on export which may be imposed to carry  
6 out the policy set forth in section 3(2)(C) of this Act subse-  
7 quent to such approval. The Director may not grant such  
8 approval unless the Director receives adequate assurance  
9 and, in conjunction with the Secretary of Agriculture, finds  
10 (A) that such commodities will eventually be exported, (B)  
11 that neither the sale nor export thereof will result in an ex-  
12 cessive drain of scarce materials and have a serious domestic  
13 inflationary impact, (C) that storage of such commodities in  
14 the United States will not unduly limit the space available for  
15 storage of domestically owned commodities, and (D) that the  
16 purpose of such storage is to establish a reserve of such com-  
17 modities for later use, not including resale to or use by an-  
18 other country. The Director may issue such regulations as  
19 may be necessary to implement this paragraph.

20       (3) If the authority conferred by this section or section is  
21 exercised to prohibit or curtail the export of any agricultural  
22 commodity in order to carry out the policies set forth in sub-  
23 paragraph (B) or (C) of paragraph (2) of section 3 of this Act,  
24 the President shall immediately report such prohibition or  
25 curtailment to the Congress, setting forth the reasons there-

1 for in detail. If the Congress, within thirty days after the date  
2 of its receipt of such report, adopts a concurrent resolution  
3 disapproving such prohibition or curtailment, then such prohi-  
4 bition or curtailment shall cease to be effective with the  
5 adoption of such resolution. In the computation of such  
6 thirty-day period, there shall be excluded the days on which  
7 either House is not in session because of an adjournment of  
8 more than three days to a day certain or because of an ad-  
9 journment of the Congress sine die.

10 (h) BARTER AGREEMENTS.—(1) The exportation pur-  
11 suant to a barter agreement of any goods which may lawfully  
12 be exported from the United States, for any goods which may  
13 lawfully be imported into the United States, may be exempt-  
14 ed, in accordance with paragraph (2) of this subsection, from  
15 any quantitative limitation on exports (other than any report-  
16 ing requirement) imposed to carry out the policy set forth in  
17 section 3(2)(C) of this Act.

18 (2) The Director shall grant an exemption under para-  
19 graph (1) if the Director finds, after consultation with the  
20 appropriate department or agency of the United States,  
21 that—

22 (A) for the period during which the barter agree-  
23 ment is to be performed—

24 (i) the average annual quantity of the goods  
25 to be exported pursuant to the barter agreement



1           will not be required to satisfy the average amount  
2           of such goods estimated to be required annually  
3           by the domestic economy and will be surplus  
4           thereto; and

5                 (ii) the average annual quantity of the goods  
6           to be imported will be less than the average  
7           amount of such goods estimated to be required an-  
8           nually to supplement domestic production; and

9           (B) the parties to such barter agreement have  
10          demonstrated adequately that they intend, and have  
11          the capacity, to perform such barter agreement.

12          (3) For purposes of this subsection, the term "barter  
13 agreement" means any agreement which is made for the ex-  
14 change, without monetary consideration, of any goods pro-  
15 duced in the United States for any goods produced outside of  
16 the United States.

17          (4) This subsection shall apply only with respect to  
18 barter agreements entered into after the effective date of the  
19 Export Administration Act of 1979.

20          (i) UNPROCESSED RED CEDAR.—(1) The Director shall  
21 require a validated license, under the authority contained in  
22 subsection (a) of this section, for the export of unprocessed  
23 western red cedar (*thuja plicata*) logs, harvested from State  
24 or Federal lands. The Director shall impose quantitative re-  
25 strictions upon the export of unprocessed western red cedar

1 logs during the three-year period beginning on the effective  
2 date of the Export Administration Act of 1979 as follows:

3 (A) Not more than thirty million board feet  
4 scribner of such logs may be exported during the first  
5 year of such three-year period.

6 (B) Not more than fifteen million board feet  
7 scribner of such logs may be exported during the  
8 second year of such period.

9 (C) Not more than five million board feet scribner  
10 of such logs may be exported during the third year of  
11 such period.

12 After the end of such three-year period, no unprocessed west-  
13 ern red cedar logs may be exported from the United States.

14 (2) The Director shall allocate export licenses to export-  
15 ers pursuant to this subsection on the basis of a prior history  
16 of exportation by such exporters and such other factors as the  
17 Director considers necessary and appropriate to minimize any  
18 hardship to the producers of western red cedar and to further  
19 the foreign policy of the United States.

20 (3) Unprocessed western red cedar logs shall not be con-  
21 sidered to be an agricultural commodity for purposes of sub-  
22 section (g) of this section.

23 (4) As used in this subsection, the term "unprocessed  
24 western red cedar" means red cedar timber which has not  
25 been processed into—

- 1 (A) lumber without wane;
- 2 (B) chips, pulp, and pulp products;
- 3 (C) veneer and plywood;
- 4 (D) poles, posts, or pilings cut or treated with
- 5 preservative for use as such and not intended to be fur-
- 6 ther processed; or
- 7 (E) shakes and shingles.

8 (j) EXPORT OF HORSES.—(1) Notwithstanding any  
9 other provision of this Act, no horse may be exported by sea  
10 from the United States, or any of its territories and posses-  
11 sions, unless such horse is part of a consignment of horses  
12 with respect to which a waiver has been granted under para-  
13 graph (2) of this subsection.

14 (2) The Director, in consultation with the Secretary of  
15 Agriculture, may issue regulations providing for the granting  
16 of waivers permitting the export by sea of a specified con-  
17 signment of horses, if the Director, in consultation with the  
18 Secretary of Agriculture, determines that no horse in that  
19 consignment is being exported for purposes of slaughter.

20 FOREIGN BOYCOTTS

21 SEC. 10. (a) PROHIBITIONS AND EXCEPTIONS.—(1)  
22 For the purpose of implementing the policies set forth in sub-  
23 paragraph (A) or (B) of paragraph (5) of section 3 of this Act,  
24 the President shall issue regulations prohibiting any United  
25 States person, with respect to his activities in the interstate

1 or foreign commerce of the United States, from taking or  
2 knowingly agreeing to take any of the following actions with  
3 intent to comply with, further, or support any boycott fos-  
4 tered or imposed by a foreign country against a country  
5 which is friendly to the United States and which is not itself  
6 the object of any form of boycott pursuant to United States  
7 law or regulation:

8           (A) Refusing, or requiring any other person to  
9           refuse, to do business with or in the boycotted country,  
10          with any business concern organized under the laws of  
11          the boycotted country, with any national or resident of  
12          the boycotted country, or with any other person, pur-  
13          suant to an agreement with, a requirement of, or a re-  
14          quest from or on behalf of the boycotting country. The  
15          mere absence of a business relationship with or in the  
16          boycotted country with any business concern organized  
17          under the laws of the boycotted country, with any na-  
18          tional or resident of the boycotted country, or with any  
19          other person, does not indicate the existence of the  
20          intent required to establish a violation of regulations  
21          issued to carry out this subparagraph.

22           (B) Refusing, or requiring any other person to  
23          refuse, to employ or otherwise discriminating against  
24          any United States person on the basis of race, religion,

1 sex, or national origin of that person or of any owner,  
2 officer, director, or employee of such person.

3 (C) Furnishing information with respect to the  
4 race, religion, sex, or national origin of any United  
5 States person or of any owner, officer, director, or em-  
6 ployee of such person.

7 (D) Furnishing information about whether any  
8 person has, has had, or proposes to have any business  
9 relationship (including a relationship by way of sale,  
10 purchase, legal or commercial representation, shipping  
11 or other transport, insurance, investment, or supply)  
12 with or in the boycotted country, with any business  
13 concern organized under the laws of the boycotted  
14 country, with any national or resident of the boycotted  
15 country, or with any other person which is known or  
16 believed to be restricted from having any business rela-  
17 tionship with or in the boycotting country. Nothing in  
18 this paragraph shall prohibit the furnishing of normal  
19 business information in a commercial context as defined  
20 by the Director.

21 (E) Furnishing information about whether any  
22 person is a member of, has made contributions to, or is  
23 otherwise associated with or involved in the activities  
24 of any charitable or fraternal organization which sup-  
25 ports the boycotted country.

1           (F) Paying, honoring, confirming, or otherwise im-  
2       plementing a letter of credit which contains any condi-  
3       tion or requirement compliance with which is prohibit-  
4       ed by regulations issued pursuant to this paragraph,  
5       and no United States person shall, as a result of the  
6       application of this paragraph, be obligated to pay or  
7       otherwise honor or implement such letter of credit.

8       (2) Regulations issued pursuant to paragraph (1) shall  
9       provide exceptions for—

10           (A) complying or agreeing to comply with require-  
11       ments (i) prohibiting the import of goods or services  
12       from the boycotted country or goods produced or serv-  
13       ices provided by any business concern organized under  
14       the laws of the boycotted country or by nationals or  
15       residents of the boycotted country, or (ii) prohibiting  
16       the shipment of goods to the boycotting country on a  
17       carrier of the boycotted country, or by a route other  
18       than that prescribed by the boycotting country or the  
19       recipient of the shipment;

20           (B) complying or agreeing to comply with import  
21       and shipping document requirements with respect to  
22       the country of origin, the name of the carrier and route  
23       of shipment, the name of the supplier of the shipment  
24       or the name of the provider of other services, except  
25       that no information knowingly furnished or conveyed in

1 response to such requirements may be stated in nega-  
2 tive, blacklisting, or similar exclusionary terms, other  
3 than with respect to carriers or route of shipment as  
4 may be permitted by such regulations in order to  
5 comply with precautionary requirements protecting  
6 against war risks and confiscation;

7 (C) complying or agreeing to comply in the  
8 normal course of business with the unilateral and spe-  
9 cific selection by the boycotting country, or national or  
10 resident thereof, of carriers, insurers, suppliers of serv-  
11 ices to be performed within the boycotting country or  
12 specific goods which, in the normal course of business,  
13 are identifiable by source when imported into the boy-  
14 coting country;

15 (D) complying or agreeing to comply with export  
16 requirements of the boycotting country relating to ship-  
17 ments or transshipments of exports to the boycotted  
18 country, to any business concern of or organized under  
19 the laws of the boycotted country, or to any national  
20 or resident of the boycotted country;

21 (E) compliance by an individual or agreement by  
22 an individual to comply with the immigration or pass-  
23 port requirements of any country with respect to such  
24 individual or any member of such individual's family or  
25 with requests for information regarding requirements of

1 employment of such individual within the boycotting  
2 country; and

3 (F) compliance by a United States person resident  
4 in a foreign country or agreement by such person to  
5 comply with the laws of that country with respect to  
6 his activities exclusively therein, and such regulations  
7 may contain exceptions for such resident complying  
8 with the laws or regulations of that foreign country  
9 governing imports into such country of trademarked,  
10 trade named, or similarly specifically identifiable prod-  
11 ucts, or components of products for his own use, in-  
12 cluding the performance of contractual services within  
13 that country, as may be defined by such regulations.

14 (3) Regulations issued pursuant to paragraphs (2)(C) and  
15 (2)(F) shall not provide exceptions from paragraphs (1)(B) and  
16 (1)(C).

17 (4) Nothing in this subsection may be construed to su-  
18 persede or limit the operation of the antitrust or civil rights  
19 laws of the United States.

20 (5) This section shall apply to any transaction or activity  
21 undertaken, by or through a United States person or any  
22 other person, with intent to evade the provisions of this sec-  
23 tion as implemented by the regulations issued pursuant to  
24 this subsection, and such regulations shall expressly provide  
25 that the exceptions set forth in paragraph (2) shall not permit



1 activities or agreements (expressed or implied by a course of  
2 conduct, including a pattern of responses) otherwise prohibit-  
3 ed, which are not within the intent of such exceptions.

4 (b) Foreign Policy Controls.—(1) In addition to the reg-  
5 ulations issued pursuant to subsection (a) of this section, reg-  
6 ulations issued under section 8 of this Act shall implement  
7 the policies set forth in section 3(5).

8 (2) Such regulations shall require that any United States  
9 person receiving a request for the furnishing of information,  
10 the entering into or implementing of agreements, or the  
11 taking of any other action referred to in section 3(5) shall  
12 report that fact to the Director, together with such other  
13 information concerning such request as the Director may re-  
14 quire for such action as the Director considers appropriate for  
15 carrying out the policies of that section. Such person shall  
16 also report to the Director whether such person intends to  
17 comply and whether such person has complied with such re-  
18 quest. Any report filed pursuant to this paragraph shall be  
19 made available promptly for public inspection and copying,  
20 except that information regarding the quantity, description,  
21 and value of any goods or technology to which such report  
22 relates may be kept confidential if the Director determines  
23 that disclosure thereof would place the United States person  
24 involved at a competitive disadvantage. The Director shall  
25 periodically transmit summaries of the information contained

1 in such reports to the Secretary of State for such action as  
2 the Secretary of State, in consultation with the Director, con-  
3 siders appropriate for carrying out the policies set forth in  
4 section 3(5) of this Act.

5 (c) PREEMPTION.—The provisions of this section and  
6 the regulations issued pursuant thereto shall preempt any  
7 law, rule, or regulation of any of the several States or the  
8 District of Columbia, or any of the territories or possessions  
9 of the United States, or of any governmental subdivision  
10 thereof, which law, rule, or regulation pertains to participa-  
11 tion in, compliance with, implementation of, or the furnishing  
12 of information regarding restrictive trade practices or boy-  
13 cotts fostered or imposed by foreign countries against other  
14 countries.

15 PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT  
16 CONTROLS

17 SEC. 11. (a) FILING OF PETITIONS.—Any person who,  
18 in such person's domestic manufacturing process or other do-  
19 mestic business operation, utilizes a product produced abroad  
20 in whole or in part from a good historically obtained from the  
21 United States but which has been made subject to export  
22 controls, or any person who historically has exported such a  
23 good, may transmit a petition of hardship to the Director  
24 requesting an exemption from such controls in order to allevi-  
25 ate any unique hardship resulting from the imposition of such

1 controls. A petition under this section shall be in such form as  
2 the Director shall prescribe and shall contain information  
3 demonstrating the need for the relief requested.

4 (b) DECISION OF THE DIRECTOR.—Not later than  
5 thirty days after receipt of any petition under subsection (a),  
6 the Director shall transmit a written decision to the petition-  
7 er granting or denying the requested relief. Such decision  
8 shall contain a statement setting forth the Director's basis for  
9 the grant or denial. Any exemption granted may be subject to  
10 such conditions as the Director considers appropriate.

11 (c) FACTORS TO BE CONSIDERED.—For purposes of  
12 this section, the Director's decision with respect to the grant  
13 of denial of relief from unique hardship resulting directly or  
14 indirectly from the imposition of export controls shall reflect  
15 the Director's consideration of factors such as the following:

16 (1) Whether denial would cause a unique hardship  
17 to the petitioner which can be alleviated only by grant-  
18 ing an exception to the applicable regulations. In de-  
19 termining whether relief shall be granted, the Director  
20 shall take into account—

21 (A) ownership of material for which there is  
22 no practicable domestic market by virtue of the  
23 location or nature of the material;

24 (B) potential serious financial loss to the ap-  
25 plicant if not granted an exception;

1           (C) inability to obtain, except through  
2           import, an item essential for domestic use which  
3           is produced abroad from the good under control;

4           (D) the extent to which denial would conflict,  
5           to the particular detriment of the applicant, with  
6           other national policies including those reflected in  
7           any international agreement to which the United  
8           States is a party;

9           (E) possible adverse effects on the economy  
10          (including unemployment) in any locality or region  
11          of the United States; and

12          (F) other relevant factors, including the ap-  
13          plicant's lack of an exporting history during any  
14          base period that may be established with respect  
15          to export quotas for the particular good.

16          (2) The effect a finding in favor of the applicant  
17          would have on attainment of the basic objectives of the  
18          short supply control program.

19 In all cases, the desire to sell at higher prices and thereby  
20 obtain greater profits shall not be considered as evidence of a  
21 unique hardship, nor will circumstances where the hardship is  
22 due to imprudent acts or failure to act on the part of the  
23 petitioner.

1           PROCEDURES FOR PROCESSING EXPORT LICENSE

2                           APPLICATIONS

3           SEC. 12. (a) PRIMARY RESPONSIBILITY OF THE DI-  
4 RECTOR.—(1) All export license applications required under  
5 this Act shall be submitted by the applicant to the Director.  
6 All determinations with respect to any such application shall  
7 be made by the Director, subject to the procedures provided  
8 in this section.

9           (2) It is the intent of the Congress that a determination  
10 with respect to any export license application be made to the  
11 maximum extent possible by the Director without referral of  
12 such application to any other department or agency of the  
13 Government.

14          (3) To the extent necessary, the Director shall seek in-  
15 formation and recommendations from the Government de-  
16 partments and agencies concerned with aspects of United  
17 States domestic and foreign policies and operations having an  
18 important bearing on exports. Such departments and agen-  
19 cies shall cooperate fully in rendering such information and  
20 recommendations.

21          (b) INITIAL SCREENING.—Within ten days after the  
22 date on which any export license application is submitted  
23 pursuant to subsection (a)(1), the Director shall—

24               (1) send the applicant an acknowledgment of the  
25       receipt of the application and the date of the receipt;

1           (2) submit to the applicant a written description of  
2           the procedures required by this section, the responsibil-  
3           ities of the Director and of other departments and  
4           agencies with respect to the application, and the rights  
5           of the applicant;

6           (3) return the application without action if the ap-  
7           plication is improperly completed or if additional infor-  
8           mation is required, with sufficient information to permit  
9           the application to be properly resubmitted, in which  
10          case if such application is resubmitted, it shall be treat-  
11          ed as a new application for the purpose of calculating  
12          the time periods prescribed in this section;

13          (4) determine whether it is necessary to refer the  
14          application to any other department or agency and, if  
15          such referral is determined to be necessary, inform the  
16          applicant of any such department or agency to which  
17          the application will be referred; and

18          (5) determine whether it is necessary to submit  
19          the application to a multilateral review process, pursu-  
20          ant to a multilateral agreement, formal or informal, to  
21          which the United States is a party and, if so, inform  
22          the applicant of this requirement.

23          (c) ACTION ON CERTAIN APPLICATIONS.—In each  
24          case in which the Director determines that it is not necessary  
25          to refer an application to any other department or agency for

1 its information and recommendations, a license shall be for-  
2 mally issued or denied within ninety days after a properly  
3 completed application has been submitted pursuant to this  
4. section.

5 (d) REFERRAL TO OTHER DEPARTMENTS AND AGEN-  
6 CIES.—In each case in which the Director determines that it  
7 is necessary to refer an application to any other department  
8 or agency for its information and recommendations, the Di-  
9 rector shall, within thirty days after the submission of a prop-  
10 erly completed application—

11 (1) refer the application, together with all neces-  
12 sary analysis and recommendations of the Office, con-  
13 currently to all such departments or agencies; and

14 (2) if the applicant so requests, provide the appli-  
15 cant with an opportunity to review for accuracy any  
16 documentation to be referred to any such department  
17 or agency with respect to such application for the pur-  
18 pose of describing the export in question in order to de-  
19 termine whether such documentation accurately de-  
20 scribes the proposed export.

21 (e) ACTION BY OTHER DEPARTMENTS AND AGEN-  
22 CIES.—(1) Any department or agency to which an applica-  
23 tion is referred pursuant to subsection (d) shall submit to the  
24 Director, within thirty days after its receipt of the applica-  
25 tion, the information or recommendations requested with re-

1 spect to such application. Except as provided in paragraph  
2 (2), any such department or agency which does not submit its  
3 recommendations within the time period prescribed in the  
4 preceding sentence shall be deemed by the Director to have  
5 no objection to the approval of such application.

6 (2) If the head of any such department or agency noti-  
7 fies the Director before the expiration of the time period pro-  
8 vided in paragraph (1) for submission of its recommendations  
9 that more time is required for review by such department or  
10 agency, such department or agency shall have an additional  
11 thirty-day period to submit its recommendations to the Direc-  
12 tor. If such department or agency does not submit its recom-  
13 mendations within the time period prescribed by the preced-  
14 ing sentence, it shall be deemed by the Director to have no  
15 objection to the approval of such application.

16 (f) ACTION BY THE DIRECTOR.—(1) Within ninety days  
17 after receipt of the recommendations of other departments  
18 and agencies with respect to a license application, as pro-  
19 vided in subsection (e), the Director shall formally issue or  
20 deny the license. In deciding whether to issue or deny a li-  
21 cense, the Director shall take into account any recommenda-  
22 tion of a department or agency with respect to the applica-  
23 tion in question. In cases where the Director receives con-  
24 flicting recommendations, the Director shall, within the  
25 ninety-day period provided for in this subsection, take such



1 action as may be necessary to resolve such conflicting recom-  
2 mendations.

3 (2) In cases where the Director receives questions or  
4 negative considerations or recommendations from any other  
5 department or agency with respect to an application, the Di-  
6 rector shall, to the maximum extent consistent with the na-  
7 tional security and foreign policy of the United States, inform  
8 the applicant of the specific questions raised and any such  
9 negative considerations or recommendations, and shall accord  
10 the applicant an opportunity, before the final determination  
11 with respect to the application is made, to respond in writing  
12 to such questions, considerations, or recommendations.

13 (3) In cases where the Director has determined that an  
14 application should be denied, the applicant shall be informed  
15 in writing, within five days after such determination is made,  
16 of the determination, of the statutory basis for denial, the  
17 policies set forth in section 3 of the Act which would be  
18 furthered by denial, and, to the extent consistent with the  
19 national security and foreign policy of the United States, the  
20 specific considerations which led to the denial, and of the  
21 availability of appeal procedures. In the event decisions on  
22 license applications are deferred inconsistent with the provi-  
23 sions of this section, the applicant shall be so informed in  
24 writing within five days after such deferral.

1       (4) If the Director determines that a particu-  
2       lar application or set of applications is of exceptional importance and  
3       complexity, and that additional time is required for negotia-  
4       tions to modify the application or applications, the director  
5       may extend any time period prescribed in this section. The  
6       Director shall notify the Congress and the applicant of such  
7       extension and the reasons therefor.

8       (g) SPECIAL PROCEDURES FOR SECRETARY OF DE-  
9       FENSE.—(1) Notwithstanding any other provision of this sec-  
10      tion, the Secretary of Defense is authorized to review any  
11      proposed export of any goods or technology to any country to  
12      which exports are controlled for national security purposes  
13      and, whenever the Secretary of Defense determines that the  
14      export of such goods or technology will make a significant  
15      contribution, which would prove detrimental to the national  
16      security of the United States, to the military potential of any  
17      such country, to recommend to the President that such  
18      export be disapproved.

19      (2) Notwithstanding any other provision of law, the Sec-  
20      retary of Defense shall determine, in consultation with the  
21      Director, and confirm in writing the types and categories of  
22      transactions which should be reviewed by the Secretary of  
23      Defense in order to make a determination referred to in para-  
24      graph (1). Whenever a license or other authority is requested  
25      for the export to any country to which exports are controlled

1 for national security purposes of goods or technology within  
2 any such type or category, the Director shall notify the Sec-  
3 retary of Defense of such request, and the Director may not  
4 issue any license or other authority pursuant to such request  
5 before the expiration of the period within which the President  
6 may disapprove such export. The Secretary of Defense shall  
7 carefully consider any notification submitted by the Director  
8 pursuant to this paragraph and, not later than thirty days  
9 after notification of the request, shall—

10 (A) recommend to the President that he disap-  
11 prove any request for the export of the goods or tech-  
12 nology involved to the particular country if the Secre-  
13 tary of Defense determines that the export of such  
14 goods or technology will make a significant contribu-  
15 tion, which would prove detrimental to the national se-  
16 curity of the United States, to the military potential of  
17 such country or any other country;

18 (B) notify the Director that he would recommend  
19 approval subject to specified conditions; or

20 (C) recommend to the Director that the export of  
21 goods or technology be approved.

22 If the President notifies the Director, within thirty days after  
23 receiving a recommendation from the Secretary of Defense,  
24 that he disapproves such export, no license or other authority

1 may be issued for the export of such goods or technology to  
2 such country.

3 (3) The Director shall approve or disapprove a license  
4 application, and issue or deny a license, in accordance with  
5 the provisions of this subsection, and, to the extent applica-  
6 ble, in accordance with the time periods and procedures oth-  
7 erwise set forth in this section.

8 (4) Whenever the President exercises his authority  
9 under this subsection to modify or overrule a recommendation  
10 made by the Secretary of Defense or exercises his authority  
11 to modify or overrule any recommendation made by the Sec-  
12 retary of Defense under subsection (c) or (d) of section 7 of  
13 this Act with respect to the list of goods and technologies  
14 controlled for national security purposes, the President shall  
15 promptly transmit to the Congress a statement indicating his  
16 decision, together with the recommendation of the Secretary  
17 of Defense.

18 (h) MULTILATERAL CONTROLS.—In any case in which  
19 an application, which has been finally approved under subsec-  
20 tion (c), (f), or (g) of this section, is required to be submitted  
21 to a multilateral review process, pursuant to a multilateral  
22 agreement, formal or informal, to which the United States is  
23 a party, the license shall not be issued as prescribed in such  
24 subsections, but the Director shall notify the applicant of the  
25 approval of the application (and the date of such approval) by

1 the Director subject to such multilateral review. The license  
2 shall be issued upon approval of the application under such  
3 multilateral review. If such multilateral review has not re-  
4 sulted in a determination with respect to the application  
5 within sixty days after such date, the Director's approval of  
6 the license shall be final and the license shall be issued,  
7 unless the Director determines that issuance of the license  
8 would prove detrimental to the national security of the  
9 United States. At the time at which the Director makes such  
10 a determination, the Director shall notify the applicant of the  
11 determination and shall notify the Congress of the determina-  
12 tion, the reasons for the determination, the reasons for which  
13 the multilateral review could not be concluded within such  
14 sixty-day period, and the actions planned or being taken by  
15 the United States Government to secure conclusion of the  
16 multilateral review. At the end of every sixty-day period  
17 after such notification to Congress, the Director shall advise  
18 the applicant and the Congress of the status of the applica-  
19 tion, and shall report to the Congress in detail on the reasons  
20 for the further delay and any further actions being taken by  
21 the United States Government to secure conclusion of the  
22 multilateral review. In addition, at the time at which the Di-  
23 rector issues or denies the license upon conclusion of the mul-  
24 tilateral review, the Director shall notify the Congress of

1 such issuance or denial and of the total time required for the  
2 multilateral review.

3 (i) RECORDS.—The Director and any department or  
4 agency to which any application is referred under this section  
5 shall keep accurate records with respect to all applications  
6 considered by the Director or by any such department or  
7 agency, including, in the case of the Director, any dissenting  
8 recommendations received from any such department or  
9 agency.

10 (j) APPEAL AND COURT ACTION.—(1) The Director  
11 shall establish appropriate procedures for any applicant to  
12 appeal to the Director the denial of an export license applica-  
13 tion of the applicant.

14 (2) In any case in which any action prescribed in this  
15 section is not taken on a license application within the time  
16 periods established by this section (except in the case of a  
17 time period extended under subsection (f)(4) of which the ap-  
18 plicant is notified), the applicant may file a petition with the  
19 Director requesting compliance with the requirements of this  
20 section. When such petition is filed, the Director shall take  
21 immediate steps to correct the situation giving rise to the  
22 petition and shall immediately notify the applicant of such  
23 steps.

24 (3) If, within thirty days after a petition is filed under  
25 paragraph (2), the processing of the application has not been

1 brought into conformity with the requirements of this section,  
2 or the application has been brought into conformity with such  
3 requirements but the director has not so notified the appli-  
4 cant, the applicant may bring an action in an appropriate  
5 United States district court for a restraining order, a tempo-  
6 rary or permanent injunction, or other appropriate relief, to  
7 require compliance with the requirements of this section. The  
8 United States district courts shall have jurisdiction to provide  
9 such relief, as appropriate.

10 VIOLATIONS

11 SEC. 13. (a) IN GENERAL.—Except as provided in sub-  
12 section (b) of this section, whoever knowingly violates any  
13 provision of this Act or any regulation, order, or license  
14 issued thereunder shall be fined not more than five times the  
15 value of the exports involved or \$50,000, whichever is  
16 greater, or imprisoned not more than five years, or both.

17 (b) WILLFUL VIOLATIONS.—(1) Whoever willfully ex-  
18 ports anything contrary to any provision of this Act or any  
19 regulation, order, or license issued thereunder, with knowl-  
20 edge that such exports will be used for the benefit of any  
21 country to which exports are restricted for national security  
22 or foreign policy purposes—

23 (A) except in the case of an individual, shall be  
24 fined not more than five times the value of the exports  
25 involved or \$1,000,000, whichever is greater; and

1 (B) in the case of an individual, shall be fined not  
2 more than \$250,000, or imprisoned not more than ten  
3 years, or both.

4 (2) Any person who is issued a validated license under  
5 this Act for the export of any good or technology to a con-  
6 trolled country and who, with knowledge that such a good or  
7 technology is being used by such controlled country for mili-  
8 tary or intelligence gathering purposes contrary to the condi-  
9 tions under which the license was issued, willfully fails to  
10 report such use to the Secretary of Defense—

11 (A) except in the case of an individual, shall be  
12 fined not more than five times the value of the exports  
13 involved or \$1,000,000, whichever is greater; and

14 (B) in the case of an individual, shall be fined not  
15 more than \$250,000, or imprisoned not more than five  
16 years, or both.

17 For the purpose of this paragraph, the term “controlled coun-  
18 try” means any country described in section 620(f) of the  
19 Foreign Assistance Act of 1961.

20 (c) CIVIL PENALTIES; ADMINISTRATIVE SANC-  
21 TIONS.—(1) The head of any department or agency exercis-  
22 ing any functions under this Act, or any officer or employee  
23 of such department or agency specifically designated by the  
24 head thereof, may impose a civil penalty not to exceed  
25 \$10,000 for each violation of this Act or any regulation,



1 order, or license issued under this Act, either in addition to or  
2 in lieu of any other liability or penalty which may be im-  
3 posed, except that the civil penalty for each such violation  
4 involving national security controls imposed under section 7  
5 of this Act or controls imposed on the export of defense arti-  
6 cles and defense services under section 38 of the Arms  
7 Export Control Act may not exceed \$100,000.

8       (2)(A) The authority under this Act to suspend or  
9 revoke the authority of any United States person to export  
10 goods or technology may be used with respect to any viola-  
11 tion of the regulations issued pursuant to section 10(a) of this  
12 Act.

13       (B) Any administrative sanction (including any civil pen-  
14 alty or any suspension or revocation of authority to export)  
15 imposed under this Act for a violation of the regulations  
16 issued pursuant to section 10(a) of this Act may be imposed  
17 only after notice and opportunity for an agency hearing on  
18 the record in accordance with sections 554 through 557 of  
19 title 5, United States Code.

20       (C) Any charging letter or other document initiating ad-  
21 ministrative proceedings for the imposition of sanctions for  
22 violations of the regulations issued pursuant to section 10(a)  
23 of this Act shall be made available for public inspection and  
24 copying.

1       (d) PAYMENT OF PENALTIES.—The payment of any  
2 penalty imposed pursuant to subsection (c) may be made a  
3 condition, for a period not exceeding one year after the im-  
4 position of such penalty, to the granting, restoration, or con-  
5 tinuing validity of any export license, permission, or privilege  
6 granted or to be granted to the person upon whom such pen-  
7 alty is imposed. In addition, the payment of any penalty im-  
8 posed under subsection (c) may be deferred or suspended in  
9 whole or in part for a period of time no longer than any  
10 probation period (which may exceed one year) that may be  
11 imposed upon such person. Such a deferral or suspension  
12 shall not operate as a bar to the collection of the penalty in  
13 the event that the conditions of the suspension, deferral, or  
14 probation are not fulfilled.

15       (e) REFUNDS.—Any amount paid in satisfaction of any  
16 penalty imposed pursuant to subsection (c) shall be covered  
17 into the Treasury as a miscellaneous receipt. The head of the  
18 department or agency concerned may, in his discretion,  
19 refund any such penalty, within two years after payment, on  
20 the ground of a material error of fact or law in the imposition  
21 of the penalty. Notwithstanding section 1346(a) of title 28,  
22 United States Code, no action for the refund of any such  
23 penalty may be maintained in any court.

24       (f) ACTIONS FOR RECOVERY OF PENALTIES.—In the  
25 event of the failure of any person to pay a penalty imposed

1 pursuant to subsection (c), a civil action for the recovery  
2 thereof may, in the discretion of the head of the department  
3 or agency concerned, be brought in the name of the United  
4 States. Except as provided in this subsection and in subsec-  
5 tion (d), no such liability shall be asserted, claimed, or recov-  
6 ered upon by the United States in any way unless it has  
7 previously been reduced to judgment.

8 (g) OTHER AUTHORITIES.—Nothing in subsection (c),  
9 (d), or (f) limits—

10 (1) the availability of other administrative or judi-  
11 cial remedies with respect to violations of this Act, or  
12 any regulation, order, or license issued under this Act;

13 (2) the authority to compromise and settle admin-  
14 istrative proceedings brought with respect to violations  
15 of this Act, or any regulation, order, or license issued  
16 under this Act; or

17 (3) the authority to compromise, remit or mitigate  
18 seizures and forfeitures pursuant to section 1(b) of title  
19 VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

## 20 ENFORCEMENT

21 SEC. 14. (a) GENERAL AUTHORITY.—To the extent  
22 necessary or appropriate to the enforcement of this Act or to  
23 the imposition of any penalty, forfeiture, or liability arising  
24 under the Export Control Act of 1949, the Export Adminis-  
25 tration Act of 1969, or the Export Administration Act of

1 1979, the head of any department or agency exercising any  
2 function thereunder (and officers or employees of such depart-  
3 ment or agency specifically designated by the head thereof)  
4 may make such investigations and obtain such information  
5 from, require such reports or the keeping of such records by,  
6 make such inspection of the books, records, and other writ-  
7 ings, premises, or property of, and take the sworn testimony  
8 of, any person. In addition, such officers or employees may  
9 administer oaths or affirmations, and may by subpoena require  
10 any person to appear and testify or to appear and produce  
11 books, records, and other writings, or both, and in the case of  
12 contumacy by, or refusal to obey a subpoena issued to, any  
13 such person, a district court of the United States, after notice  
14 to any such person and hearing, shall have jurisdiction to  
15 issue an order requiring such person to appear and give testi-  
16 mony or to appear and produce books, records, and other  
17 writings, or both, and any failure to obey such order of the  
18 court may be punished by such court as a contempt thereof.

19 (b) IMMUNITY.—No person shall be excused from com-  
20 plying with any requirements under this section because of  
21 his privilege against self-incrimination, but the immunity pro-  
22 visions of section 6002 of title 18, United States Code, shall  
23 apply with respect to any individual who specifically claims  
24 such privilege.

1       (c) CONFIDENTIALITY.—(1) Except as otherwise pro-  
2       vided by the third sentence of section 10(b)(2) and by section  
3       13(c)(2)(C) of this Act, information obtained under this Act  
4       on or before the date of enactment of this Act, which is  
5       deemed confidential, including Shippers' Export Declara-  
6       tions, or with reference to which a request for confidential  
7       treatment is made by the person furnishing such information,  
8       shall be exempt from disclosure under section 552 of title 5,  
9       United States Code, and such information shall not be pub-  
10      lished or disclosed unless the Director in his sole discretion  
11      determines that the withholding thereof is contrary to the  
12      national interest. Information obtained under this Act or the  
13      Export Administration Act of 1979 after June 30, 1980, may  
14      be withheld only to the extent permitted by statute, except  
15      that information obtained for the purpose of consideration of,  
16      or concerning, license applications under this Act or the  
17      Export Administration Act of 1979 shall be withheld from  
18      public disclosure unless the release of such information is de-  
19      termined by the Director in his sole discretion to be in the  
20      national interest. This subsection shall not affect any judicial  
21      proceeding commenced under section 552 of title 5, United  
22      States Code, to obtain access to boycott reports submitted  
23      prior to October 31, 1976, which was pending on May 15,  
24      1979; but such proceeding shall be continued as if this Act  
25      had not been enacted.

1       (2) Nothing in this Act shall be construed as authorizing  
2 the withholding of information from the Congress or from the  
3 General Accounting Office. All information obtained at any  
4 time under this Act or previous Acts regarding the control of  
5 exports, including any report or license application required  
6 under this Act, shall be made available to any committee or  
7 subcommittee of Congress of appropriate jurisdiction upon re-  
8 quest of the chairman or ranking minority member of such  
9 committee or subcommittee. No such committee or subcom-  
10 mittee, or member thereof, shall disclose any information ob-  
11 tained under this Act or previous Acts regarding the control  
12 of exports which is submitted on a confidential basis unless  
13 the full committee determines that the withholding of that  
14 information is contrary to the national interest. Notwith-  
15 standing paragraph (1) of this subsection, information re-  
16 ferred to in the second sentence of this paragraph shall, con-  
17 sistent with the protection of intelligence, counterintelligence,  
18 and law enforcement sources, methods, and activities, as de-  
19 termined by the agency that originally obtained the informa-  
20 tion, and consistent with the provisions of section 313 of the  
21 Budget and Accounting Act, 1921, be made available only by  
22 that agency, upon request, to the Comptroller General of the  
23 United States or to any officer or employee of the General  
24 Accounting Office who is authorized by the Comptroller Gen-  
25 eral to have access to such information. No officer or employ-

1 ee of the General Accounting Office shall disclose, except to  
2 the Congress in accordance with this paragraph, any such  
3 information which is submitted on a confidential basis and  
4 from which any individual can be identified.

5 (3) Departments or agencies which obtain information  
6 which is relevant to the enforcement of this Act shall furnish  
7 such information to the department or agency with enforce-  
8 ment responsibilities under this Act to the extent consistent  
9 with the protection of intelligence, counterintelligence, and  
10 law enforcement sources, methods, and activities, except  
11 that—

12 (A) the provisions of this paragraph shall not  
13 apply to information subject to the restrictions set forth  
14 in section 9 of title 13, United States Code; and

15 (B) return information, as defined in subsection (b)  
16 of section 6103 of the Internal Revenue Code of 1954,  
17 may be disclosed only as authorized by such section.

18 (d) REPORTING REQUIREMENTS.—In the administra-  
19 tion of this Act, reporting requirements shall be so designed  
20 as to reduce the cost of reporting, recordkeeping, and export  
21 documentation required under this Act to the extent feasible  
22 consistent with effective enforcement and compilation of  
23 useful trade statistics. Reporting, recordkeeping, and export  
24 documentation requirements shall be periodically reviewed

1 and revised in the light of developments in the field of infor-  
2 mation technology.

3 (e) SIMPLIFICATION OF REGULATIONS.—The Director,  
4 in consultation with appropriate United States Government  
5 departments and agencies and with appropriate technical ad-  
6 visory committees established under section 7(g), shall review  
7 the regulations issued under this Act and the commodity con-  
8 trol list in order to determine how compliance with the provi-  
9 sions of this Act can be facilitated by simplifying such regula-  
10 tions, by simplifying or clarifying such list, or by any other  
11 means.

12 EXEMPTION FROM CERTAIN PROVISIONS RELATING TO  
13 ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

14 SEC. 15. (a) EXEMPTION.—Except as provided in sec-  
15 tion 13(c)(2), the functions exercised under this Act are ex-  
16 cluded from the operation of sections 551, 553 through 559,  
17 and 701 through 706 of title 5, United States Code.

18 (b) PUBLIC PARTICIPATION.—It is the intent of the  
19 Congress that, to the extent practicable, all regulations im-  
20 posing controls on exports under this Act be issued in pro-  
21 posed form with meaningful opportunity for public comment  
22 before taking effect. In cases where a regulation imposing  
23 controls under this Act is issued with immediate effect, it is  
24 the intent of the Congress that meaningful opportunity for  
25 public comment also be provided and that the regulation be



1 reissued in final form after public comments have been fully  
2 considered.

3 ANNUAL REPORT

4 SEC. 16. (a) CONTENTS.—Not later than December 31  
5 of each year, the Director shall submit to the Congress a  
6 report on the administration of this Act during the preceding  
7 fiscal year. All agencies shall cooperate fully with the Direc-  
8 tor in providing information for such report. Such report shall  
9 include detailed information with respect to—

10 (1) the implementation of the policies set forth in  
11 section 3;

12 (2) general licensing activities under sections 7, 8,  
13 and 9, and any changes in the exercise of the authori-  
14 ties contained in sections 7(a), 8(a), and 9(a);

15 (3) the results of the review of United States  
16 policy toward individual countries pursuant to section  
17 7(b);

18 (4) the results, in as much detail as may be in-  
19 cluded consistent with the national security and the  
20 need to maintain the confidentiality of proprietary in-  
21 formation, of the actions, including reviews and revi-  
22 sions of export controls maintained for national security  
23 purposes, required by section 7(c)(3);

24 (5) actions taken to carry out section 7(b);

1           (6) changes in categories of items under export  
2 control referred to in section 7(e);

3           (7) determinations of foreign availability made  
4 under section 7(f), the criteria used to make such de-  
5 terminations, the removal of any export controls under  
6 such section, and any evidence demonstrating a need  
7 to impose export controls for national security purposes  
8 notwithstanding foreign availability;

9           (8) actions taken in compliance with section  
10 7(f)(5);

11           (9) consultations with the technical advisory com-  
12 mittees established pursuant to section 7(g), the use  
13 made of the advice rendered by such committees, and  
14 the contributions of such committees toward imple-  
15 menting the policies set forth in this Act;

16           (10) the effectiveness of export controls imposed  
17 under section 8 in furthering the foreign policy of the  
18 United States;

19           (11) export controls and monitoring under section  
20 9;

21           (12) the information contained in the reports re-  
22 quired by section 9(b)(2), together with an analysis  
23 of—

24                   (A) the impact on the economy and world  
25 trade of shortages or increased prices for commod-

1           ities subject to monitoring under this Act or sec-  
2           tion 812 of the Agricultural Act of 1970;

3           (B) the worldwide supply of such commod-  
4           ities; and

5           (C) actions being taken by other countries in  
6           response to such shortages or increased prices;

7           (13) actions taken by the President and the Direc-  
8           tor to carry out the antiboycott policies set forth in  
9           section 3(5) of this Act;

10          (14) organizational and procedural changes under-  
11          taken in furtherance of the policies set forth in this  
12          Act, including changes to increase the efficiency of the  
13          export licensing process and to fulfill the requirements  
14          of section 12, including an analysis of the time required  
15          to process license applications, the number and disposi-  
16          tion of export license applications taking more than  
17          ninety days to process, and an accounting of appeals  
18          received, court orders issued, and actions taken pursu-  
19          ant thereto under subsection (j) of such section;

20          (15) delegations of authority by the President as  
21          provided in section 6(e) of this Act;

22          (16) efforts to keep the business sector of the  
23          Nation informed with respect to policies and proce-  
24          dures adopted under this Act;

1           (17) any reviews undertaken in furtherance of the  
2           policies of this Act, including the results of the review  
3           required by section 14(d), and any action taken, on the  
4           basis of the review required by section 14(e), to sim-  
5           plify regulations issued under this Act;

6           (18) violations under section 13 and enforcement  
7           activities under section 14; and

8           (19) the issuance of regulations under the authori-  
9           ty of this Act, including an explanation of each case in  
10          which regulations were not issued in accordance with  
11          the first sentence of section 15(b).

12       (b) REPORT ON CERTAIN EXPORT CONTROLS.—To  
13       the extent that the President determines that the policies set  
14       forth in section 3 of this Act require the control of the export  
15       of goods and technology other than those subject to multilat-  
16       eral controls, or require more stringent controls than the mul-  
17       tilateral controls, the President shall include in each annual  
18       report the reasons for the need to impose, or to continue to  
19       impose, such controls and the estimated domestic economic  
20       impact on the various industries affected by such controls.

21       (c) REPORT ON NEGOTIATIONS.—The President shall  
22       include in each annual report a detailed report on the prog-  
23       ress of the negotiations required by section 7(j), until such  
24       negotiations are concluded.

## REGULATORY AUTHORITY

SEC. 17. The President and the Director may issue such regulations as are necessary to carry out the provisions of this Act. Any such regulations issued to carry out the provisions of section 7(a), 8(a), 9(a), or 10(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.

## TRANSFER OF FUNCTIONS

SEC. 18. (a) TRANSFERS TO DIRECTOR.—In addition to authorities and responsibilities elsewhere provided for in this Act, there are transferred to the Office of Strategic Trade the following functions and authorities:

(1) those of the Offices of East-West Trade and Munitions Control of the Department of State with respect to the munitions list pursuant to the Arms Export Control Act; and

(2) such other functions and authorities, not specifically or otherwise vested or delegated by statute, as the Director, in consultation with the Director of the Office of Management and Budget, determine to be appropriate.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, in consultation with the Director, is authorized and directed to make such determinations as may be necessary with regard to the transfer of func-

1 tions which relate to or are utilized by an agency, commis-  
2 sion or other body, or component thereof affected by this Act,  
3 to make such additional incidental dispositions of personnel,  
4 assets, liabilities, contracts, property, records, and unexpend-  
5 ed balances of appropriations, authorizations, allocations, and  
6 other funds held, used, arising from, available to, or to be  
7 made available in connection with the functions transferred  
8 by this Act, as he may deem necessary to accomplish the  
9 purposes of this Act.

10 EFFECT ON OTHER ACTS

11 SEC. 19. (a) IN GENERAL.—Nothing contained in this  
12 Act shall be construed to modify, repeal, supersede, or other-  
13 wise affect the provisions of any other laws authorizing con-  
14 trol over exports of any commodity.

15 (b) COORDINATION OF CONTROLS.—The authority  
16 granted to the President under this Act shall be exercised in  
17 such manner as to achieve effective coordination with the  
18 authority exercised under section 38 of the Arms Export  
19 Control Act (22 U.S.C. 2778).

20 (c) CIVIL AIRCRAFT EQUIPMENT.—Notwithstanding  
21 any other provision of law, any product (1) which is standard  
22 equipment, certified by the Federal Aviation Administration,  
23 in civil aircraft and is an integral part of such aircraft, and (2)  
24 which is to be exported to a country other than a controlled  
25 country, shall be subject to export controls exclusively under

1 this Act. Any such product shall not be subject to controls  
2 under section 38(b)(2) of the Arms Export Control Act. For  
3 purposes of this subsection, the term “controlled country”  
4 means any country described in section 620(f) of the Foreign  
5 Assistance Act of 1961.

6 (d) NONPROLIFERATION CONTROLS.—(1) Nothing in  
7 section 7 or 8 of this Act shall be construed to supersede the  
8 procedures published by the President pursuant to section  
9 309(c) of the Nuclear Non-Proliferation Act of 1978.

10 (2) With respect to any export license application which,  
11 under the procedures published by the President pursuant to  
12 section 309(c) of the Nuclear Non-Proliferation Act of 1978,  
13 is referred to the Subgroup on Nuclear Export Coordination  
14 or other interagency group, the provisions of section 12 of  
15 this Act shall apply with respect to such license application  
16 only to the extent that they are consistent with such pub-  
17 lished procedures, except that if the processing of any such  
18 application under such procedures is not completed within  
19 one hundred and eighty days after the receipt of the applica-  
20 tion by the Director, the applicant shall have the rights of  
21 appeal and court action provided in section 12(j) of this Act.

22 (e) TERMINATION OF OTHER AUTHORITY.—On Octo-  
23 ber 1, 1979, the Mutual Defense Assistance Control Act of  
24 1951 (22 U.S.C. 1611–1613d), is superseded.

## 1                   AUTHORIZATION OF APPROPRIATIONS

2           SEC. 20. (a) REQUIREMENT OF AUTHORIZING LEGIS-  
3 LATION.—Notwithstanding any other provision of law, no  
4 appropriation shall be made under any law to the Depart-  
5 ment of Commerce for expenses to carry out the purposes of  
6 this Act unless previously and specifically authorized by law.

7           (b) AUTHORIZATION.—There are authorized to be ap-  
8 propriated to carry out the purposes of this Act—

9                   (1) \$           for each of the fiscal years 1984  
10           through 1987; and

11                   (2) such additional amounts, for each such fiscal  
12           year, as may be necessary for increases in salary, pay,  
13           retirement, other employee benefits authorized by law,  
14           and other nondiscretionary costs.

## 15                   EFFECTIVE DATE

16           SEC. 21. This Act shall take effect upon the expiration  
17 of the Export Administration Act of 1979.

## 18                   TERMINATION DATE

19           SEC. 22. The authority granted by this Act terminates  
20 on September 30, 1987, or upon any prior date which the  
21 President by proclamation may designate.

## 22                   SAVINGS PROVISIONS

23           SEC. 23. (a) IN GENERAL.—All delegations, rules, reg-  
24 ulations, orders, determinations, licenses, or other forms of  
25 administrative action which have been made, issued, conduct-



1 ed, or allowed to become effective under the Export Control  
2 Act of 1949, the Export Administration Act of 1969, or the  
3 Export Administration Act of 1979 and which are in effect at  
4 the time this Act takes effect shall continue in effect accord-  
5 ing to their terms until modified, superseded, set aside, or  
6 revoked under this Act.

7 (b) ADMINISTRATIVE PROCEEDINGS.—This Act shall  
8 not apply to any administrative proceedings commenced or  
9 any application for a license made, under the Export Admin-  
10 istration Act of 1979, which is pending at the time this Act  
11 takes effect.

12 TECHNICAL AMENDMENTS

13 SEC. 24. (a) Section 38(e) of the Arms Export Control  
14 Act (22 U.S.C. 2778(e)) is amended by striking out “section  
15 11 of the Export Administration Act of 1979, and by subsec-  
16 tions (a) and (c) of section 12 of such Act” and inserting in  
17 lieu thereof “section 13 of the Office of Strategic Trade Act  
18 of 1983 and by subsections (a) and (c) of section 14 of such  
19 Act”.

20 (b)(1) Section 103(c) of the Energy Policy and Conser-  
21 vation Act (42 U.S.C. 6212(c)) is amended by striking out  
22 “Export Administration Act of 1979” and inserting in lieu  
23 thereof “Office of Strategic Trade Act of 1983”.

24 (2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3))  
25 is amended by striking out “section 12 of the Export Admin-

1   istration Act of 1979” and inserting in lieu thereof “section  
2   14 of the Office of Strategic Trade Act of 1983”.

3           (c) Section 993(c)(2)(D) of the Internal Revenue Code of  
4   1954 (26 U.S.C. 993(c)(2)(D)) is amended—

5           (1) by striking out “7(a) of the Export Adminis-  
6   tration Act of 1979” and inserting in lieu thereof “9(a)  
7   of the Office of Strategic Trade Act of 1983”; and

8           (2) by striking out “(A)” and inserting in lieu  
9   thereof “(C)”.

10          (d) Section 5313 of title 5, United States Code, is  
11   amended by adding at the end thereof the following item:

12           “Director of Strategic Trade.”.

13          (e) Section 5315 of such title is amended by adding at  
14   the end thereof the following:

15           “Assistant Directors, Office of Strategic Trade  
16   (4).”.

17   **AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947**

18          SEC. 25. The fourth paragraph of section 101(a) of the  
19   National Security Act of 1947 (50 U.S.C. 402(a)) is  
20   amended—

21           (1) by redesignating clauses (5), (6), and (7) as  
22   clauses (6), (7), and (8), respectively; and

23           (2) by inserting after clause (4) the following new  
24   clause:

25           “(5) the Director of Strategic Trade;”.

